

**BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA**

IN RE TEST CLAIM ON:

Statutes 1980, Chapter 1143

Filed on July 22, 1981

By the Association of Bay Area Governments,
Claimant

No. SB 90-3929


***Regional Housing Needs: Councils of
Government***

ADMINISTRATIVE RECORD

I HEREBY CERTIFY that each of the following documents is a true and correct copy of the corresponding documents contained in the administrative record of the Commission on State Mandates.

I further certify that the documents listed in the table of contents constitute the record of the original administrative proceedings before the Commission on State Mandates and the Board of Control, the predecessor agency of the Commission on State Mandates.

Dated: November 5, 2004



Nancy Patton, Acting Executive Director

STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES
Successor to the Board of Control

ADMINISTRATIVE RECORD

Association of Bay Area Governments, Claimant
(Chapter 1143, Statutes of 1980,
Regional Housing Needs: Councils of Governments)

Board of Control No. SB 90 – 3929

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SECTION 1



Association of Bay Area Governments

Hotel Claremont • Berkeley, California 94705 • (415) 841-9730

July 22, 1981

Mr. Ray D. Banion
Assistant Executive Secretary
State Board of Control
Suite 300, 926 J Street
Sacramento, CA 95814

RECEIVED
JUL 22 1981
STATE BOARD OF CONTROL

Dear Mr. Banion: *Ray:*

Yesterday Governor Brown signed into law AB 20 (Chapter 242 of the Statutes of 1981). This law, which took immediate effect, makes our Association and other councils of governments in California eligible to file with the Board of Control claims for reimbursement for State-mandated costs. This eligibility, as you know, was not formerly available to COGs, which are joint powers agencies operating under the Government Code. As a result of this, we have had to undergo a lengthy and highly uncertain Government Code claims process under Article XIII B of the State Constitution.

Enclosed are an original and nine copies of a claim for approximately \$124,000 filed pursuant to the revised definitions of Section 2211 of the Revenue and Taxation Code. This claim is for reimbursement of State-mandated costs resulting from enactment of AB 2853 (Chapter 1143 of the Statutes of 1980). Please note that Section 11 of Chapter 242 of the Statutes of 1981 declares a legislative interpretation that the revised definition now contained in Section 2211 of the Revenue and Taxation Code is to be construed as effective July 1, 1980, the effective date of the addition of Article XIII B of the Constitution.

ABAG's claim for reimbursement is filed pursuant to the provisions of the Revenue and Taxation Code and the provisions of the Constitution applying to mandated activities of local agencies enacted or imposed after January 1, 1975. Under these provisions, reimbursement for COG activity to comply with Chapter 1143 of the Statutes of 1980 is required of the State.

It is my understanding that similar claims for reimbursement will shortly be filed with the Board of Control by the San Diego and Southern California Associations of Governments. ABAG has no preference for a hearing location, and would prefer the hearing on this claim of first impression be scheduled at the first available date, regardless of Board meeting location. We would greatly appreciate your expediting the handling of this claim, because of the delays we have encountered in resolving the reimbursement issue.

Sincerely,

Douglas G. Detling
Legislative Affairs Officer

Representing City and County Governments in the San Francisco Bay Area

90-3929

STATE OF CALIFORNIA -- BOARD OF CONTROL
925 J STREET, SUITE 300
SACRAMENTO, CALIFORNIA 95814
(916) 443-1540

SUBMIT IN QUADRUPLICATE

SB 90 CLAIM

RC-09A (REV. 1/78)

ENTITY SUBMITTING CLAIM (NO ABBREVIATIONS)

ASSOCIATION OF BAY AREA GOVERNMENTS

ADDRESS

TYPE OF ENTITY

☐ 1 CITY ☐ 3 SCHOOL DISTRICT

☐ 2 COUNTY ☐ 4 SPECIAL DISTRICT

X Authority

REPRESENTATIVE ORGANIZATION TO BE NOTIFIED, I.E., CHAC, LEAGUE OF CITIES, ETC.

League of California Cities;
CSAC

RECEIVED

JUL 22 1981

STATE BOARD OF CONTROL

THIS CLAIM IN THE AMOUNT OF

\$ 1 2 3 5 5 0 .53

IS FILED PURSUANT TO REVENUE AND TAXATION CODE SECTION

☐ 2253(A) ☒ 2253(B) ☐ 2253(C) ☐ 2253(D)

FOR COSTS INCURRED DURING 1980-81

1981-82 (est.) FY

I. REASON FOR CLAIM TO BOARD OF CONTROL (Complete 1. or 2. below)

☒ 1. CLAIM BASED ON LEGISLATION (COMPLETE A. THROUGH C. BELOW)

A. CHAPTER 1143 STATUTES OF 1980 B. OPERATIVE DATE OF MANDATE January 1, 1981 C. LEGISLATION CONTAINED ☐ APPROPRIATION ☒ DISCLAIMER ☐ NEITHER

☐ 2. CLAIM BASED ON EXECUTIVE REGULATIONS (COMPLETE A. THROUGH F. BELOW)

A. ISSUING AGENCY B. CODE TITLE AND SECTION AMENDED C. OPERATIVE DATE OF MANDATE D. IS REGULATION THE RESULT OF LEGISLATION ☐ NO ☐ YES IF YES, CITE ENABLING STATUTE (CHAPTER) (STATUTES OF) DID ENABLING STATUTE CONTAIN AN ☐ APPROPRIATION ☐ DISCLAIMER ☐ NEITHER E. DATE FILED WITH SECRETARY OF STATE F. DOES THE REGULATION CONTAIN AN ☐ APPROPRIATION ☐ DISCLAIMER ☐ NEITHER

II. SUMMARY OF MANDATE - Briefly explain the mandate and its effect upon the entity's operation or organization and attach a detailed computation of the cost impact for which this claim is filed.

Mandate specified in Section 65584 of Government Code, added by Chapter 1143. A council of governments for San Francisco Bay Area, ABAG is required to determine city and county shares of regional housing needs, which must be considered by city and county governments preparing mandatory housing elements of general plans. ABAG must also accept any city or county revision of its share of the regional housing needs, or indicate why such revision is inconsistent with regional needs. ABAG's claim based on analysis of statute (enclosed), actual expenditures to date, work-program estimated schedule, analysis requirements and staffing estimates. See attached supplement.

I DO HEREBY CERTIFY:

THAT sections 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with; and

THAT I am the person authorized by the local agency to file claims for funds with the State of California.

SIGNATURE OF AUTHORIZED REPRESENTATIVE

Eugene G. Leong
Acting Executive Director

DATE

July 22, 1981

TELEPHONE NUMBER

(415) 841-9730

BOARD OF CONTROL USE

REC'D

CLAIM NO.

NEW

UPDATE

CLAIM OF 1st IMPRESSION

☐ YES (IF YES, ENTER "ORIGINAL" IN SPACE BELOW)

☐ NO (IF NO, ENTER NAME OF ENTITY MAKING 1ST IMPRESSION)

BOARD'S DECISION

ENTER A OR R IN BOX

A - ACCEPTED

R - REJECTED

AMOUNT OF PAYMENT

DATE OF PAYMENT

SUPPLEMENTAL INFORMATION FOR ABAG CLAIM

Chapter 1143 of the Statutes of 1980 was enacted September 26, 1980. On October 30, 1980, the Association of Bay Area Governments filed a claim under provisions of the Revenue and Taxation Code. This claim (SB 90-3587) was considered, along with those of other COGs, by the five-member Board of Control on January 21, 1981. The Board stated (letter of January 30, 1981) that it lacked jurisdiction to consider claims under the Revenue and Taxation Code from councils of governments.

The Association then filed, pursuant to provisions of the Government Code, a claim for reimbursement for actual costs incurred to meet the requirements of Chapter 1143. This claim (ABAG vs. State of California No. 82979-A) was denied by the three-member Board of Control at its meeting of June 16, 1981. In taking this action, the Board did not specify its reasons for denial, nor did the Board find that Chapter 1143 imposes no new mandates on COGs.

Chapter 242 of the Statutes of 1981 (AB 20) was enacted on July 21, 1981, taking immediate effect. Section 8 of this chapter redefined "local agency" in Section 2211 of the Revenue and Taxation Code for the purposes of filing Revenue and Taxation Code claims for reimbursement of State-mandated programs. Section 11 of Chapter 242 is an uncodified statute specifying that, for the purposes of Article XIII B of the State Constitution, the effective date of the revised statutory definition of a local agency shall be deemed to be July 1, 1980. The revised definition brings the Revenue and Taxation Code into conformity with the provisions of Article XIII B.

Claimant is a council of governments organized by cities and counties of the San Francisco Bay Area pursuant to the Joint Exercise of Powers Act (Chapter 5 of Division 7 of Title 1 of the Governmental Code). Its geographical jurisdiction is the nine-county Bay Area, a regional planning district determined in accordance with Section 65040.4 of the Government Code. Claimant is therefore a local agency as defined by Section 2211 of the Revenue and Taxation Code. [For further analysis of this point, see Legislative Counsel Opinion No. 15805; Department of Finance memorandum of December 2, 1980 to Robert J. Beckus, California Advocates, representing ABAG; and DOF memorandum of January 8, 1981 to the Board of Control re: SB 90-3581.]

Claim of First Impression

Enactment of AB 2853 (Chapter 1143, Statutes of 1980) imposed a new, reimbursable mandate on ABAG and similar councils of governments within the meaning of Section 6 of Article XIII B of the Constitution and the meaning of Sections 2207 and 2231 of the Revenue and Taxation Code.

ABAG anticipates that the Department of Housing and Community Development may, in reviewing this claim, repeat arguments of its memorandum to the three-member Board of Control of April 29, 1981. A

summary of ABAG's response of May 29, 1981, is therefore included here for consideration by the five-member Board of Control. In addition, the board is requested to review the H&CD/Office of Planning and Research memorandum of January 9, 1981 to Ray D. Banion of the Board of Control staff; this memorandum expressed the view that AB 2853 does impose mandates on councils of governments although it made no attempt to the "extent to which this mandate results in the incursion of new costs... ."

Constitutional Provisions

Article XIII B of the Constitution was enacted in November 1979, and became effective on July 1, 1980. Section 6 provides, with certain exceptions, that "whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service."

The exceptions are if the legislative mandate was requested, if the legislation defined a new crime or definition of a crime, or if the legislative mandate was enacted prior to January 1, 1975. Note that a17 exceptions specifically include the words "legislative mandate" or "legislation." In the case of AB 2853, the legislatively mandated actions were not requested by ABAG, are not a new crime or definition of crime, and were enacted on September 26, 1980.

Therefore, those actions of ABAG and other councils of governments specifically required by Section 65584 of the Government Code (as added by AB 2853) are "new mandates" within the meaning of Section 6 of Article XIII B. They are also new mandates as defined by Section 2207 of the Revenue and Taxation Code, for which reimbursement, as provided by Section 2231, is **required**.

Lack of Pre-AB 2853 Mandates for Councils of Governments

Prior to enactment of AB 2853, State law did not require ABAG or any other council of governments to determine a regional housing need, or to determine local government shares of such need, or to accept or reject any local government revision to such determinations. Those activities are in fact the "new mandates" imposed by Section 66584 of the Government Code.

In the event the Department of Housing & Community Development continues to falsely depict the advisory nature of the 1977 housing element guidelines, and the relationship of those guidelines to COG activity, it should be noted (again, restating the points of ABAG's letter of May 29, 1981), that:

- The department's position that the 1977 guidelines were and are mandatory is erroneous in view of Legislative Counsel Opinion No. 9894, the budget control language on Item 150 of SB 190 (the 1979-80 budget act), the provisions of Government Code Section

65585 (enacted as part of AB 2853), and the Second District Court of Appeals' decision in Bownds v. City of Glendale (1980), 113 Cal. App. 3d 875, which the State Supreme Court declined to review in March 1981.

- The advisory guidelines were adopted as regulations on November 17, 1977, pursuant to Section 41134 of the Health and Safety Code (now recodified as Section 50459) and subsection (c) of Government Code Section 65302 as it reads until October 1, 1981. Section 41134 required such guidelines to "conform as nearly as possible to the guidelines" adopted in June 1971. The 1971 guidelines did not require regional housing elements, nor did they require any activity by a council of governments, such as ABAG.
- Section 50459 is included in Division 31 of the Health and Safety Code. Nothing in this division requires councils of governments to prepare or adopt regional housing elements, or to determine regional housing needs.
- Section 65302 of the Government Code is included in Article 5 (authority and scope of general plans) of Chapter 3 dealing with local planning. Chapter 3 does not require regional housing planning.
- The 1977 guidelines do not mandate activity by any council of governments. Section 6420 of the guidelines provides that the department "shall...prepare or delegate preparation of...a fair share allocation plan." Section 6424 "delegates" to councils of government the voluntary assignment of preparing a fair share allocation plan for non-market rate housing, but specifies that "the department shall perform the housing needs allocation" plan if a council of governments did not complete such a plan. In other words, the 1977 guidelines provided COGs with the option of preparing a fair share plan. The department retained the responsibility to prepare such plans under a grant of authority it assigned to itself under statutes that contain no requirements for housing planning activity by councils of governments.
- On June 8, 1978, H&CD asked ABAG for its schedule for the development of a fair share allocation plan for non-market rate housing. On June 22, 1978, ABAG staff informed the department of ABAG's limited financial resources and existing planning priorities. These factors argued against ABAG's choosing to prepare a Bay Area fair share allocation plan. This position was formally adopted by the ABAG Regional Planning Committee on August 8, 1978.
- The department's draft fair share allocation plan of February 1979 in its very first paragraph states that the 1977 guidelines presented councils of governments with the "option" of preparing fair share allocation plans.

In view of the facts cited above, the requirements of AB 2853 with respect to council of governments' activities are clearly new mandates that do not originate from earlier statutory requirements or the 1971 or 1977 housing element guidelines. **Until enactment of AB 2853, neither State law nor the guidelines imposed any mandatory Rousing planning duties on ABAG and other councils of governments.**

Costs Incurred

Of the \$123,550.53 claimed as the 1980-81 and 1981-82 costs of responding to the requirements of AB 2353, the FY 1980-81 costs of \$24,125.53 represents actual costs incurred from January 1 through May 15, 1981 to partially fulfill the State-mandated requirements of AB 2853. These expenditures are fully documented in Attachment A. **All expenditures by ABAG to date under AB 2853 were directly incurred to meet the duties imposed by enactment of AB 2853--the duties and associated costs for which ABAG seeks reimbursement under the provisions of Section 6 of Article XIII B and Section 2231 of the Revenue and Taxation Code.**

Estimated Costs for 1981-82

ABAG estimates **it** will be required to expend an additional \$99,425 to complete the initial work required by AB 2853 for the 1981 housing element submissions and to begin the monitoring program necessary for the 1984 submission. This estimate is based on the revised work tasks (shown in Attachment B) prepared in anticipation of the parameters and guidelines setting process. This work program is similar to that prepared in October 1980 as the basis for Claim SB 90-3587. The tasks have been reorganized and new cost estimates prepared to reflect ABAG's actual experience in responding to the substantive requirements of AB 2853. We would be happy to assist the Board in expediting the parameter/guideline setting process upon favorable action on this claim of first' impression.

ABAG staff have no desire to engage in a prolonged debate over what is required by AB 2853. The tasks described in the attachments are reasonable approximations of the level of effort necessary to respond adequately to the requirements of the law. In terms of this work, no state agency has produced estimates of regional housing need consistent with the provisions of Article 10.6 of the Government Code. ABAG and other councils of governments are required to undertake considerable data handling and analysis, based on "data provide by the Department of Housing and Community Development relative to the Statewide need for housing." In fact, the Department has so far limited its assistance to producing projections of the number of households in the state and regions, based upon Department of Finance population projections. Neither DOF nor H&CD estimates reflect State-level information comparable to that required by AB 2853 to be used by the COGs in determining regional housing need or in distributing such need to local jurisdictions. The tasks described here reflect ABAG's extensive experience in dealing with highly complex, legally and analytically

intricate issues in a large geographical region with a large number of local jurisdictions.

The tasks shown in Attachment B and fully described in Attachment C are the necessary milestones or steps to be accomplished in doing the work required by AB 2853. They should not be interpreted as separate, individual requirements of the law. Were it not for the overall mandates of AB 2853, these individual milestones or work steps would not have been or would not be undertaken.

intricate issues in a large geographical region with a large number of local jurisdictions.

The tasks shown in Attachment B and fully described in Attachment C are the necessary milestones or steps to be accomplished in doing the work required by AB 2853. They should not be interpreted as separate, individual requirements of the law. Were **it** not for the overall mandates of AB 2853, these individual milestones or work steps would not have been or would not be undertaken.

ATTACHMENT A

COSTS INCURRED BY THE
ASSOCIATION OF BAY AREA GOVERNMENTS
UNDER AB 2853
January 1, 1981 - May 15, 1981

Payments to staff (See Staff Charges Summary and Program Manager Memoranda)

a. January 15-31	\$ 221.66
b. February 1-15	1,778.82
c. February 16-28	1,810.36
d. March 1-15	1,552.99
e. March 16-31	389.34
f. April 1-15	1,136.26
g. April 16-30	3,007.56
h. May 1-15	<u>2,164.76</u>
	\$ 12,061.74

Indirect (overhead) Costs (\$6/hr. x 605.3 hours) \$ 3,631.80

Payments to consultants (contract and temporary services)

1. William Goldner (contract research economist)	
a. January 22, 1981	\$ 2,035.00
b. February 27, 1981	2,073.00
c. March 23, 1981	2,123.00
d. April 16, 1981	<u>1,229.01</u>
	\$ 7,460.01
2. Fred Vogler (programming assistance through Kelly Services)	
a. April 13-17	\$ 334.00
b. April 20-24	334.00
c. May 8-15	<u>364.00</u>
	\$ 1,032.00

TOTAL EXPENDITURES \$ 24,125.54

SUMMARY OF STAFF CHARGES
OWP #103.40 Housing Needs Assessment

STAFF	HOURS	DOLLARS
<u>Pay Period, January 16-31</u>		
Dan Lopez, Senior Regional Planner	7.5	137.70
Jean Safir, Senior Regional Planner	4.0	83.96
<u>Pay Period, February 1-15</u>		
Ray Brady, Principal Regional Planner I	45.0	889.65
Dan Lopez, Senior Regional Planner	45.0	826.20
Jean Safir, Senior Regional Planner	3.0	62.97
<u>Pay Period, February 16-28</u>		
Ray Brady, Principal Regional Planner I	37.5	741.38
Doug Detling, Principal Administrative Officer II	12.0	296.52
Dan Lopez, Senior Regional Planner	37.05	688.50
Jean Safir, Senior Regional Planner	4.0	83.96
<u>Pay Period, March 1-15</u>		
Ray Brady, Principal Regional Planner I	24.0	444.96
Doug Detling, Principal Administrative Officer II	13.0	301.21
Dan Lopez, Senior Regional Planner	42.0	806.82
<u>Pay Period, March 16-31</u>		
Ray Brady, Principal Regional Planner I	21.0	389.34
<u>Pay Period, April 1-15</u>		
Ray Brady, Principal Regional Planner I	6.5	120.51
Doug Detling, Principal Administrative Officer II	4.0	97.04
Eugene Leong, Assistant Executive Director	6.0	174.96
Dan Lopez, Senior Regional Planner	25.0	502.25
Jean Safir, Senior Regional Planner	11.5	241.50
<u>Pay Period, April 16-30</u>		
Ann Berry, Administrative Secretary	14.0	168.00
Ray Brady, Principal Regional Planner I	22.0	407.88
Doug Detling, Principal Administrative Officer II	30.0	727.80
Sally Germain, Administrative Secretary	2.3	26.08
Eugene Leong, Assistant Executive Director	14.0	408.24
Dan Lopez, Senior Regional Planner	40.0	803.60
Jean Safir, Senior Regional Planner	15.0	315.00
Revan Tranter, Executive Director	4.0	150.96



DT January 31, 1981

FM: Dan Lopez, Manager,

Housing Needs Assessment Program 103.40

TO: Files

RE: Program Activities, January 15-31, 1981

This memorandum documents activities of Jean Safir and me to carry out ABAG's work under the mandates of AB 2853. An Overall Work Program number (103.40) was assigned for staff charges occurring January 15 and thereafter.

During the remainder of January, we:

1. Briefed 20 new members of the Housing Advisory Committee about the mandates of AB 2853, and the duties assigned to ABAG by the bill.
2. Communicated with Paul Turner of the Department of Housing and Community Development re: H&CD's schedule for producing the estimated statewide need for housing mentioned in S. 65584 of AB 2853.
3. Conducted the first meeting of the new Housing Advisory Committee on 1/21/81.
4. Conducted briefing on AB 2853 for the Marin Board of Realtors (1/22/81) and the Southern Alameda County Board of Realtors (1/27/81).
5. Briefed local government elected official, staff, or planning consultants: Livermore Zoning Administrator (1/26/81); Marin County Board of Supervisors (1/21/81); , consultant to Marin County cities (1/19/81); Novato Planning Department (1/26/81).

DT: February 18, 1981

DBL
FM: Dan Lopez, Manager
Housing Needs Assessment Program (103.40)

TO: Files

RE: Program Activities, February 1-15, 1981

This memorandum documents activities of staff members (Jean Safir, Ray Brady and Dan Lopez) to carry out ABAG's work under the mandates of AB 2853.

During this period, we accomplished the following items:

1. Ray Brady and I worked extensively with our consultant, Bill Goldner, to develop and refine analytical procedures for:

- o estimating household income by county
- o conducting housing market demand analysis by county
- o forecasting number and mix of households by community.

2. We also communicated with following interested persons re: progress in doing work under AB 2853:

San Anselmo Planning Director (2/3/81); Walnut Creek Planning Department (2/3/81); Pleasanton Chamber of Commerce (2/4/81); Napa County Planning Department (2/6/81); Building Industry Legislative Committee (2/10/81); and Berkeley Planning Department (2/11/81).

3. In addition, we held extensive discussions on 2/5/81 and 2/11/81 with the Marin Legal Aid Society, which is acting as consultant to 11 Marin County cities on housing element preparation re: AB 2853 and its implementation,



DT March 2, 1981

FM Dan Lopez, Manager,
Housing Needs Assessment Program (103.40)

TO Files

RE: Program Activities, February 16-28

This memorandum documents activities of staff members (Ray Brady, Jean Safir, Doug Detling, and Dan Lopez) to carry out ABA3's work under the mandates of AB 2853.

1. Ray Brady identified and refined the methodology for disaggregating income estimates by household type to the jurisdiction level. Much of Ray's time was spent in consultation with Bill Goldner.
2. Major activity was focused on the Housing Advisory Committee meeting on February 18. This committee is anxious to review the housing need numbers we expect to be producing over the coming months.
3. Extensive discussions on housing element preparation were conducted on February 20 and February 27 with city representatives of St. Helena, Calistoga and Yountville.
4. Briefings on AB 2853 and ABAG work progress were given to: City of San Rafael planning consultant (2/19/81); Oakland City Councilman (2/20/81); Oakland builders (2/20/81); Cotati builders (2/23/81); and planning consultants to several Santa Clara County cities (2/24/81).



DT: March 16, 1981

FM: ^{DBI} Dan Lopez, Manager,
Housing Needs Assessment Program (IO3.40)

TO: Files

RE: Program Activities, March 1-15, 1981

This memorandum documents this period's activities of staff members (Kay Brady, Doug Detling and Dan Lopez) to carry out ABAG's work under the mandates of AB 2853.

1. Major analytical activities included:

- o Identification of appropriate methodology for assessing employment opportunities by jurisdiction.
- o Refinement of methodology for affordability analysis to assess market demand.

2. Staff extensively critiqued Bill Go7dner's analytical study design to be discussed at March Housing Advisory Committee meeting.

3. Briefings on AB 2853 work progress and requirements were made to Livermore City Council/Planning Commission (3/2/81); City of Martinez Affordable Housing Task Force (3/5/81); League of Women Voters of the Bay Area (3/9/81); and Eden Housing, Inc. of Hayward (3/12/87).

4. Based on lack of progress to date in resolving reimbursement issue identified by ABAG in October, staff briefed Executive Director on need to inform member cities and counties of delays in producing housing need numbers required by AB 2853. Memorandum summarizing work status sent March 10.



DT: April 1, 1981

FM: ^{DB3} Dan Lopez, Manager,
Housing Needs Assessment Program (103.40)

TO: Files

RE: Program Activities, March 16-31, 1981

This memorandum documents activities of staff members (Ray Brady) to carry out ABAG's work under the mandates of AB 2853.

Because of uncertainties of funding reimbursement (see last progress memo), only Ray Brady charged time to the housing needs assessment program this pay period. (Jean Safir had one brief contact with Mountain View's planning staff but didn't charge any time to AB 2853 work).

Ray spent his charged time to working with Bill Goldner to identify available data sources necessary to produce required numbers. Ray and Bill also began coding this information so it will be readily at hand when the reimbursement issue is settled.



DT: April 17, 1981

FM: ^{DLF} Dan Lopez, Manager
Housing Needs Assessment Program
(OWP #103.40)
RE: Program Activities, April 1-15, 1981

TO: Files

This memorandum documents activities of staff members (Ray Brady, Doug Detling, Jean Safir and Dan Lopez) to carry out ABAG's work under the mandates of AB 2853.

During this period, staff work on producing the housing need numbers progressed more rapidly. The uncertainty about eligibility for reimbursement was greatly reduced after the State Board of Control meeting on April 7. After extensive discussions with the Executive Director and John Evans, ABAG's attorney, it was decided to file a claim for costs incurred through April 30.

Staff also accomplished the following:

1. Ray Brady and Bill Goldner (consultant) reviewed with Dan Lopez, Jean Safir and Doug Detling the progress to date in making the 1980 estimate and 1985 housing projections. Following these discussions, it was determined that Fred Vogler should be hired on a temporary basis to help produce the numbers. Vogler was felt necessary because no other program had staff available to assist on this project during the month of April.
2. Work schedules were developed for staff for weeks of April 13 and April 20. Meeting was scheduled for April 21 to:
 - a. Review progress with Bill Goldner and assign tasks to complete regional housing need estimate for the May 13 meeting of the Housing Advisory Committee.
 - b. Dry run the presentation to Building Industry Assn. representatives on April 22.
3. Ray Brady agreed to hold workshop on May 12 with county representatives on Projections Technical Advisory Committee to go over methodology and county sharer of regional housing need.
4. Dan Lopez will prepare a letter asking H&CD comments on regional need forecast prior to disaggregations. This will avoid having to assume the expense of a second disaggregation to city and county levels if H&CD were to revise the numbers as permitted by AB 2853.
5. Doug Detling will have responsibility for preparing the amended claim for the State Board of Control.

6. During this period, staff also briefed and consulted with the following:

Martinez Affordable Housing Task Force (4/2/81); Contra Costa Mayors' Conference (4/2/81); Newark Planning Director, (4/8/81); Hispanic Community Action Council of Hayward (4/10/81); and San Mateo city staff (4/10/81).

7. Jean Safir attended U.C. Davis workshop on AB 2853 and inclusionary land use measures.



DT: April 30, 1981

FM: ^{PLS} Dan Lopez, Manager
Housing Needs Assessment Program 103,40

TO: Files

RE: Program Activities, April 16-30, 1981

This memorandum documents activities of staff (Ann Berry, Ray Brady, Doug Detling, Sally Germain, Gene Leong, Dan Lopez, Jean Safir and Revan Tranter) under the Regional Housing Needs Assessment Program.

During this period, we:

1. Conducted extensive discussions on April 22 and 27 with Building Industry Association representatives regarding the appropriate methodology for identifying market demand for housing.
2. Briefed new State Housing and Community Development staff who will be reviewing local government housing elements submitted by Bay Area jurisdictions.
3. Briefed participants of the National Association of Housing and Redevelopment Officials Section Meeting on April 29 on the relationship of surplus lands in the regional housing needs.
4. Identified the methods to be used to estimate the existing (1980) housing need, and identified available data sources.
5. Reviewed survey reports on housing vacancies to determine rates to be applied in calculating 1980 housing needs and producing the estimated 1980 households, using 1980 Census data on housing stock made available April 22.
6. Outlined the Regional Housing Needs Report for consideration by the Housing Advisory Committee on May 13.
7. Drafted introductory section of the Housing Needs Report.
8. Estimated the number of current households and the projected 1985 number of households, and compared to State estimates for the region.
9. Calculated current housing affordability based on income, interest rates, taxation advantages for differing income percentiles by county.
10. Verified the computer programs developed by Fred Vogler to analyze current and projected affordability.
11. Briefed the City Manager of Moraga on requirements of AR 2853 (4/24/81).



DT: May 15, 1981

FM: ^{N55} Dan Lopez, Manager,
Housing Needs Assessment Program (103.40)

TO: Files

RE: Program Activities
May 1-15, 1981

This memorandum documents activities of staff members (Ann Berry, Ray Brady, Doug Detling, Dan Lopez, Yvonne McGough, Jean Safir and Pat Yoshitsu) under the Regional Housing Needs Assessment Program.

During this period, staff continued its work and made substantial progress on the affordability component of the market demand analysis. Work progressed despite the temporary setback at the Board of Control meeting on May 5, when the Department of Housing and Community Development presented a position paper indicating that AB 2853 did not contain a new mandate. This position is contrary to the Department's previous advice and posture regarding this point. John Evans, ABAG Legal Counsel, will work with Doug Detling to draft a written confirmation of Doug's statements at the May 5 meeting. The decision was postponed until the Board's June 16 meeting,

The major activity of this period was to produce the county level forecasts of households, incomes and affordability status for 1980 and 1985. The county level information was presented to the county staff members of ABAG's Projections Technical Advisory Committee on May 5. A meeting was held with them on May 12, and the ABAG staff received substantial comments on the methods used, the assumptions and the approach overall to complying with AB 2853,

Based on these comments, Ray Brady and the analysis staff will be revising the county-level information, reviewing it against the 1980 and 1985 estimates of households furnished by H&CD and other available information. Ray hopes to have revised county-level numbers, and city numbers, by early June.

Other activities during this period included:

- a. Briefing the Regional Planning Committee on the H&CD statement and the Board of Control meeting. The RPC members were most distressed at the way in which the State Department is getting in our way and preventing early resolution of the funding issue.
- b. Jean Safir attended a conference on May 8 at UC Berkeley, Affordable housing and the potential impacts of AB 2853 on the Bay Area were discussed at length.
- c. Dan Lopez briefed a subcommittee of the League of California Cities on May 6 regarding the status of implementation of AB 2853,

On May 15, Doug Detling and Dan Lopez briefed Revan Tranter, the Executive Director of the next steps to be taken with the Board of Control and the Department. John Evans was asked to review the question of whether a

mandate exists under AB 2853 if the Board of Control fails to act on June 16, and what remedies are available to ABAG. Revan indicated he would not permit **additional** costs to be incurred by staff unless he was satisfied that the course of action was acceptable to the agency's counsel and the Executive Board, which will meet on **May** 21 to discuss the situation,

We remain optimistic that the Board of Control will sustain our position.

ATTACHMENT B
RELATIONSHIP OF AB 2853 MANDATES TO ABAG WORK TASKS

REGIONAL NEED DETERMINATION

65584. (a) For purposes of subdivision (a) of Section 65583, a locality's share of the regional housing needs includes that share of the housing need of persons at all income levels within the area significantly affected by a jurisdiction's general plan. The distribution of regional housing needs shall, based upon available data, take into consideration market demand for housing, employment opportunities, the availability of suitable sites and public facilities, commuting patterns, type and tenure of housing need, and the housing needs of farmworkers. The distribution shall seek to avoid further impaction of localities with relatively high proportions of lower income households. Based upon data provided by the Department of Housing and Community Development rehtive to the statewide need for housing, each council of governments shall determine the existing and projected housing need for its region.

1. **Designate a policy body to oversee the development of the technical and policy aspects of regional housing needs assessment and determination of local shares of regional housing needs.**
2. **Reformat and analyze existing housing, economic and demographic data for each jurisdiction, and for the region as a whole, to identify existing and projected housing needs. Pursuant to subsection (a) of Government Code Section 65584, this will include an identification of:**
 - A. **Market demand for housing. This component will be used in the 1985 requirements of housing needs.**
 - B. **Employment opportunities.**
 - C. **Availability of suitable sites and public facilities,**
 - D. **Commuting patterns from each jurisdiction to major employment centers in region.**
 - E. **Type and tenure of housing supply.**
3. **Prepare a draft report of regional housing needs.**
4. **Assess potential impacts of regional housing needs determination on other regional plans, policies and programs:**
 - A. **Present and future availability of adequate water supply facilities.**
 - B. **Existing and projected wastewater treatment facilities funded by §201 of the Federal Clean Water Act/State Clean Water Bond Act,**
 - C. **Regional/local Transportation Improvement and Transportation Systems Management Programs.**
 - D. **The 1979 Bay Area Air Quality Plan [the applicable State Implementation Plan revision under the Federal Clean Air Act],**
 - E. **Other areas of critical environmental concern (e.g., parklands, agricultural lands, baylands).**

REGIONAL NEED DETERMINATION (continued)

5. Review draft regional housing needs report with all cities and counties, and modify draft report as appropriate to reflect local comments.
6. Provide for Executive Board adoption of regional needs report, including any recommendations for required changes in other regional plans and programs to accommodate the determined regional housing needs.

REGIONAL NEED REVISION, IF ANY

7. Provide the Department of Housing and Community Development with an opportunity to revise the regional housing needs determination.

LOCALITY SHARE DETERMINATION

8. Disaggregate regional housing needs to jurisdiction level, and prepare final report.
9. Provide for Executive Board adoption of final report, containing local shares of regional housing needs.

ACCEPTANCE/REJECTION OF LOCAL NEED REVISIONS, IF ANY

10. Provide for local government review and acceptance/revision to local shares of regional housing needs, as contained in final report.
11. Provide for Executive Board acceptance/rejection of local government revisions to local shares of regional housing needs.

ONGOING ACTIVITIES/PROJECT MANAGEMENT

12. Monitor program implementation, as required, for the local housing element revision process.
13. Provide overall management and administrative oversight to the program.

The Department of Housing and Community Development shall ensure that this determination is consistent with the statewide housing need and may revise the determination of the council of governments if necessary to obtain this consistency. Each locality's share shall be determined by the appropriate council of governments consistent with the criteria above with the advice of the department subject to the procedure established pursuant to subdivision (c).

(c) Within 90 days following a determination of a council of governments pursuant to subdivision (a), or the department's determination pursuant to subdivision (b), a local government may revise the definition of its share of the regional housing need. The revised share shall be based upon available data and accepted planning methodology, and supported by adequate documentation.

Within 60 days of the local government's revision, the council of governments or the department, as the case may be, shall accept the revision or shall indicate, based upon available data and accepted planning methodology, why the revision is inconsistent with the regional housing need. The housing element shall contain an analysis of the factors and circumstances, with all supporting data, justifying the revision. All materials and data used to justify any revision shall be made available upon request by any interested party within 45 days upon payment of reasonable costs of reproduction unless such costs are waived due to economic hardship.

(d) Any authority to review and revise a local government's share of the regional housing need granted under this section shall not constitute authority to revise, approve, or disapprove the manner in which the local government's share of the regional housing need is implemented through its housing program.

ATTACHMENT C

PROGRAM SUBCATEGORY 103.30 (formerly 103.40): Regional Housing Needs Assessment

The work program tasks, budgets, and schedules below indicate ABAG's actual and estimated activities (beginning in January 1981) to comply with the provision of AB 2853 requirements and enable its member cities and counties to do likewise. Attachment B showed the relationship of the work program tasks to the requirements of AB 2853. The tasks are described in this attachment, as well as ABAG's estimated costs and schedule,

MAJOR TASKS

1. Designate a policy body to oversee the development of the technical and policy aspects of regional housing needs assessment and determination of local shares of regional housing needs.

ABAG, as a council of governments, is required by Government Code Section 65584(a) to "determine" the existing and projected housing needs of its region. ABAG is also required to "determine" locality shares of these needs, and to accept or not accept local government revisions of such need. The word "determine" is presumed by ABAG to mean a policy action by local elected officials who serve as the decision-making officials of the agency,

It is customary and accepted planning methodology for COGs and other planning agencies to use advisory committees to review staff work prior to policy-level action; this is especially important since members of these committees are consulted by other elected officials prior to their policy-level action.

The ABAG Regional Planning Committee was assigned lead responsibility for policy oversight of the AB 2853 work by the Executive Board. The Housing Advisory Committee was reconstituted and expanded to assist staff and the RPC. The Projections Technical Advisory Committee was assigned new responsibilities to assist in the technical analysis, as required.

Task 1 has been completed; its costs, while minimal, are included in the actual expenditures shown in Attachment A.

2. Reformat and analyze existing housing, economic and demographic data for each jurisdiction, and for the region as a whole, to identify existing and projected housing needs. Pursuant to subsection (a) of Government Code Section 65584, this will include an identification of:
 - A. Market demand for housing. This component will be used in the 1985 requirements of housing needs.

- B. Employment opportunities.
- C. Availability of suitable sites and public facilities.
- D. Commuting patterns from each jurisdiction to major employment centers in region.
- E. Type and tenure of housing supply.

This task is significant analytical work required by AB 2853. WBAG will use available information and data to perform this analysis, but the analysis required will be extensive and subject to careful review of methods, assumptions and documentation,

Using other resources, ABAG is updating population projections, but these projections will not undergo policy-level review in time to be used to estimate the regional housing need. Therefore, already adopted Projections 79 growth increments will be used for the period from 1980-85, with 1980 Census information to be incorporated for the base year (1980) estimates of regional housing needs,

The last comprehensive survey of local government policies including zoning ordinances affecting the timing, magnitude and location of residential, commercial and industrial development was conducted during ABAG's initial Environmental Management Program (1975-1978). ABAG is not claiming funds to update the local policy survey, update population and employment projections, or generate new data. Where other ABAG programs develop updated information that can be used in the course of the AB 2853 work, this information will be incorporated in housing needs assessment.

A portion of this work was accomplished during the 1980-81 fiscal year, and these expenditures are included in the expenditures shown in Attachment A,

Estimated Cost

Schedule

1981-82	\$28,700	August-October 1981
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Estimated Staffing (in person/months)

1981-82	7 p/m
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3. Prepare a draft report of regional housing needs.

ABAG will make available this report to include draft county-level information, but final regional housing needs figures (and the associated county-level information) will not be disaggregated to the city level until completion of Task 7. The report will be sent to the Department of Housing & Community Development for review.

Estimated Cost

Schedule

1981-82

\$ 8,200

August-October 1981

Estimated Staffing

1981-82

2 p/m

4. Assess potential impacts of regional housing needs determination on other regional plans, policies and programs:

- A. Present and future availability of adequate water supply facilities.
- B. Existing and projected wastewater treatment facilities funded by §201 of the Federal Clean Water Act/State Clean Water Bond Act.
- C. Regional/local Transportation Improvement and Transportation Systems Management Programs.
- D. The 1979 Bay Area Air Quality Plan (the applicable State Implementation Plan revision under the Federal Clean Air Act).
- E. Other areas of critical environmental concern (e.g., parklands, agricultural lands, baylands).

This task is included for staff work if the housing need determinations by ABAG are found to be subject to the provisions of the California Environmental Quality Act. It also reflects the requirements for impact assessment (but not the costs of plan amendments) to comply with Federal planning consistency requirements, which ABAG is obliged to meet. In addition, it is accepted planning methodology to provide such information to elected officials prior to policy decisions.

Estimated Cost

Schedule

1981-82

\$ 4,100

September-October 1981

Estimated Staffing

1981-82

1 p/m

5. Review draft regional housing needs report with all cities and counties, and modify draft report as appropriate to reflect local comments.

The purpose of this task is to promote local understanding of the methods, assumptions and implementation implications of the regional housing needs determination. Major attention will be given to briefings of elected officials and staff through presentations at mayors conferences and meetings of city managers, planning commissioners, and planning and other local staff, as needed.

Reflecting this well-organized public review process, ABAG will modify the draft report, incorporating changes in the preliminary determinations of housing needs assessment. These activities are essential to Regional Planning Committee and Executive Board actions to determine the existing and projected regional housing needs. The Executive Board does not act on such planning matters without allowing opportunity for technical staff review and public comment.

The early public review process also promotes public understanding and acceptance of "numbers" to be used by local governments in their housing elements, and understanding of local governments' concerns about the implications of revising ABAG-determined local shares of the regional housing needs and ABAG acceptance or rejection of such needs, under Task 10.

Estimated Cost

1981-82 \$12,300

Schedule

August-October 1981

Estimated Staffing

1981-82 3 p/m

6. **Provide for Executive Board adoption of regional needs report, including any recommendations for required changes in other regional plans and programs to accommodate the determined regional housing needs.**

Policy-level adoption of regional housing needs is required. Staff does not "determine" such needs. In addition, such determinations do not take place without modification to existing regionwide facilities plans and regional policies, if necessary. These changes may have major consequences for other Federal and State regulatory programs and capital investment policies.

Estimated Cost

1981-82 \$ 4,100

Schedule

October 1981

Estimated Staffing

1981-82 1 p/m

7. **Provide the Department of Housing and Community Development with an opportunity to revise the regional housing needs determination.**

This opportunity for H&CD action is required by AB 2853. Staff will meet with H&CD, if necessary, and report any comments or revision to the Executive Board prior to completion of Task 80

Estimated Cost

Schedule

1981-82	\$ 1,025	October 1981
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Estimated Staffing

1981-82	.25 p/m
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8. Disaggregate regional housing needs to jurisdiction level, and prepare final report.

The final regional and county-level information, after completion of Task 7, will be disaggregated to the city level. This distribution will reflect the information assembled in Tasks 2 and 5, as required,

Estimated Cost

Schedule

1981-82	\$10,250	September-October 1981
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Estimated Staffing

1981-82	2.5 p/m
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9. Provide for Executive Board adoption of final report, containing local shares of regional housing needs.

Estimated Cost

Schedule

1981-82	\$ 4,100	November 1981
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Estimated Staffing

1981-82	1 p/m
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10. Provide for local government review and acceptance/revision to local shares of regional housing needs, as contained in final report.

AB 2853 provides a 90-day period for local governments to revise the regionally determined locality shares of regional housing need, ABAG staff will be available to meet with local jurisdictions to provide explanatory information, as needed.

Estimated Cost

Schedule

1981-82	\$ 6,150	November 1981-February 1982
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Estimated Staffing

1981-82	1.5 p/m
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11. Provide for Executive Board acceptance/rejection of local government revisions to local shares of regional housing needs.

This action is specifically required by subsection (c) of Section 65584 of the Government Code. Action would occur within 60 days of any local government revision, as required.

Estimated Cost

Schedule

1981-82	\$ 4,100	February-June 1982
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Estimated Staffing

1981-82	1 p/m
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12. Monitor program implementation, as required, for the local housing element revision process.

This task would begin during the latter half of 1981-82, and would be continued as a low-level staff effort during 1982-83. Tasks 10 and 11 would require activity in 1982-83 if any local governments revise housing elements during that time.

Estimated Cost

Schedule

1981-82	\$ 4,100	March-June 1982
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Estimated Staffing

1981-82	1 p/m
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13. Provide overall management and administrative oversight to the program.

Overall ABAG management and administrative aspects of the program will assure orderly and timely completion of the requisite analytical and policy reports.

Estimated Cost

Schedule

1981-82	\$12,300	August 1981-June 1982
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Estimated Staffing

1981-82	3 p/m
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CHAPTER 1143

An act to amend Section 65302 of, and to add Article **10.6** (commencing with Section 65580) to Chapter 3 of Division 1 of Title 7 of the Government Code relating to local planning.

[Approved by Governor September 26, 1980. Filed with
Secretary of state September 26, 1980.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2853, Roos. Local planning: mobilehome parks and housing elements.

(1) **Existing** law authorizes the legislative body of a county or city to regulate by zoning ordinance the various uses to which property within the jurisdiction may be put, and requires the legislative body to establish a planning agency to, **among** other things, develop and maintain a general plan.

This bill would require the Department of Housing and Community Development, within **30** days after the effective date of **this** bill, to prepare and send to each county and city a questionnaire requesting prescribed information concerning the zoning regulations applicable to mobilehome parks, and would require the department to evaluate and report to the Legislature on the information received on or before July **1, 1981**.

(2) Existing law requires the adoption by every county and city of a local general plan, including a housing element. Under present law, the housing element is required to make adequate provision for the housing needs of **all** economic segments of the community. Under present law, there **are** no specific time limitations for periodic revision of the housing element, and the Office of Planning and Research may grant limited time extensions for completion of the element.

This bill would enact substantially more detailed requirements for the housing element and, among other things, would require counties and cities to plan in the housing element for meeting their "appropriate share of the regional demand for housing," as determined pursuant to a specified procedure involving the council of governments for the region, the state's Department of Housing and Community Development, or the department alone in areas not having such a council. The bill would require each county and city to conform its housing element to the bill on or before October **1, 1981**. The bill would require every city **and** county to revise its housing element, **as** specified at least every 5 years, except that the first revision would be due by July **1, 1984**.

(3) Under existing law, Sections **2231** and **2234** of the Revenue and Taxation Code require the state to reimburse local agencies and

school districts for certain costs mandated by the state. Other provisions require the Department of Finance to review statutes disclaiming these costs and provide, in certain cases, for making claims to the State Board of Control for reimbursement. The statutory provisions requiring reimbursement will be supplemented by a constitutional requirement of reimbursement effective for statutes enacted on or after July 1, 1980.

This bill provides that no appropriation is made by this act pursuant to the constitutional mandate or Section 2231 or 2234, but recognizes that local agencies and school districts may pursue their other available remedies to seek reimbursement for these costs.

The people of the State of California do enact as follows:

SECTION 1. The Department of Housing and Community Development shall within 30 days after the effective date of this section prepare and send to each county and city a questionnaire requesting the following information:

(1) The number of mobilehome parks within the jurisdiction, and the authorized number of mobilehome sites in each park.

(2) The number of requests or permit applications for change of use of the mobilehome park.

(3) The number of applications for the establishment of new mobilehome parks.

(4) The disposition of requests or permit applications for change of use of mobilehome parks or applications for the establishment of new mobilehome parks and the reasons for denial of such requests or applications.

(5) The availability of land within the jurisdiction that may be appropriate for establishment of mobilehome parks.

(6) Local established practices, policies, and ordinances concerning change of use of mobilehome parks.

(7) Local efforts and policies for reducing the incidence of change of use of mobilehome parks within the jurisdiction.

The information specified in paragraphs (1) to (4), inclusive, shall cover the period from January 1, 1979, through December 31, 1979. The information specified in paragraphs (5) to (7), inclusive, shall reflect current conditions and circumstances as of the time of the completion of the questionnaire.

The department shall prepare and submit a written report to the Legislature on or before July 1, 1981, containing an evaluation of the information received in response to the questionnaire.

This section shall apply to charter cities and counties as well as general law cities and counties.

SEC. 2. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and

text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall also identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to such areas.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover:

(1) The reclamation of land and waters.

(2) Flood control.

(3) Prevention and control of the pollution of streams and other waters.

(4) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(5) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(6) Protection of watersheds.

(7) The location, quantity and quality of the rock, sand and gravel resources.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560) of this chapter.

(f) A seismic safety element consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking, to ground failures, or to effects of seismically induced waves such as tsunamis and seiches.

The seismic safety element shall **also** include an appraisal of mudslides, landslides, and slope stability **as** necessary geologic hazards that must be considered simultaneously with other hazards such **as** possible surface ruptures from faulting, ground shaking, ground failure and seismically induced waves.

To the extent that a county's seismic safety element is sufficiently detailed containing appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's seismic safety element that pertains to the city planning area within the county's jurisdiction, in satisfaction of this subdivision.

In adopting a county seismic safety element, a city shall follow **all** requirements regarding the content and adoption of general plan elements **as** set forth in this article and Article 6 (commencing with Section 65350) of this chapter.

Each county and city shall submit to the Division of Mines and Geology of the Department of Conservation one copy of the seismic safety element and any technical studies used for developing the seismic safety element.

(g) A noise element, which shall recognize guidelines adopted by the Office of Noise Control pursuant to Section 46050.1 of the Health and Safety Code, and which quantifies the community noise environment in terms of noise exposure contours for both near- and long-term levels of **growth** and traffic activity. Such noise exposure information shall become a guideline for use in development of the land use element to achieve noise compatible land use and **also** to provide baseline levels and noise source identification for local noise ordinance enforcement.

The sources of environmental noise considered in this analysis shall include, but are not limited to, the following:

- (1) Highways and freeways.
- (2) **Primary** arterials and major local streets.
- (3) Passenger and freight on-line railroad operations and ground rapid transit systems.
- (4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and **all** other ground facilities and maintenance functions related to **airport** operation.
- (5) Local industrial plants, including, but not limited to, railroad classification yards.

(6) Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

The noise exposure information shall be presented in terms of noise contours expressed in community noise equivalent level (CNEL) or day-night average level (L_{dn}). CNEL means the average equivalent A-weighted sound level during a 24-hour day, obtained after addition of five decibels to sound levels in the evening from 7 p.m. to 10 p.m. and after addition of 10 decibels to sound levels in the night before 7 a.m. and after 10 p.m. L_{dn} means the average

equivalent A-weighted sound level during a 24-hour day, obtained after addition of 10 decibels to sound levels in the night, before 7 a.m. and after 10 p.m.

The contours shall be shown in minimum increments of 5db and shall continue down to 60db. For **areas** deemed noise sensitive, including, but not limited to, areas containing schools, hospitals, rest homes, long-term medical or mental care facilities, or any other land-use areas deemed noise sensitive by the local jurisdiction, the noise exposure shall be determined by monitoring.

A part of **the** noise element shall also include **the** preparation of a community noise exposure inventory, current and projected, which identifies the number of persons exposed to various levels of noise throughout the community.

The noise element shall **also** recommend mitigating measures and possible solutions to existing and foreseeable noise problems.

The state, local, or private agency responsible for the construction, maintenance, or operation of those transportation, industrial, or other commercial facilities specified in paragraph 2 of this subdivision shall provide to the local agency producing the general plan, specific data relating to current and projected levels of activity and a detailed methodology for the development of noise contours given this supplied data, or they shall provide noise contours **as** specified in the foregoing statements.

It shall be the responsibility of **the** local agency preparing the general plan to specify the manner in which the noise element will be integrated into the city or county's zoning plan and tied to the land use and circulation elements **and** to the local noise ordinance. The noise element, once adopted, shall also become the guideline for determining compliance with the state's noise insulation standards, **as** contained in Section 1092 of Title 25 of the California Administrative Code.

(h) A scenic highway element for the development, establishment, **and** protection of scenic highways pursuant to the provisions of Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets **and** Highways Code.

(i) A safety element for the protection of the community from fires **and** geologic hazards including features necessary ~~for~~ such protection **as** evacuation routes, peak load water supply requirements, **minimum** road widths, clearances around structures, and geologic hazard mapping in areas of known geologic hazards.

The requirements of this section shall apply to charter cities.

SEC. 3. Article 10.6 (commencing with Section 65580) is added to Chapter 3 of Division 1 of Title 7 of the Government Code, to read:

Article 10.6. Housing Elements

65580. The Legislature finds and declares as **follows**:

(a) The availability of housing is of vital statewide importance,

and the early attainment of decent housing and a suitable living environment for every California family is a priority of the highest order.

(b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.

(c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.

(d) Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.

(e) The Legislature recognizes that in carrying out this responsibility, each local government also has the responsibility to consider economic, environmental, and fiscal factors and community goals set forth in the general plan and to cooperate with other local governments and the state in addressing regional housing needs.

65581. It is the intent of the Legislature in enacting this article:

(a) To assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal.

(b) To assure that counties and cities will prepare and implement housing elements which, along with federal and state programs, will move toward attainment of the state housing goal.

(c) To recognize that each locality is best capable of determining what efforts are required by it to contribute to the attainment of the state housing goal, provided such a determination is compatible with the state housing goal and regional housing needs:

(d) To ensure that each local government cooperates with other local governments in order to address regional housing needs.

65582. As used in this article:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Department" means the Department of Housing and Community Development.

(c) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section **65302**.

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all

of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include the following:

(1) Analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. Such existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) Analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) Analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures.

(5) Analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) Analysis of any special housing needs, such as those of the handicapped, elderly, large families, farmworkers, and families with female heads of households.

(7) Analysis of opportunities for energy conservation with respect to residential development.

(b) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, improvement, and development of housing.

It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the identified existing housing needs, but should establish the maximum number of housing units that can be constructed, rehabilitated, and conserved over a five-year time frame.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and

incentives, **and** the utilization of appropriate federal and state financing and subsidy programs when **available**. In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing and mobilehomes, in order to meet the community's housing goals as identified in subdivision (b).

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing.

(4) Conserve and improve the condition of the existing affordable housing stock.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national **origin**, or color.

The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program **shall** describe this effort.

65584. (a) For purposes of subdivision (a) of Section 65583, a locality's share of the regional housing needs includes that share of the housing need of persons at all income levels within the area significantly affected by a jurisdiction's general plan. The distribution of regional housing needs shall, based upon available data, take into consideration market demand for housing, employment opportunities, the availability of suitable sites and public facilities, commuting patterns, type and tenure of housing need, and the housing needs of farmworkers. The distribution shall seek to avoid further impaction of localities with relatively high proportions of lower income households. Based upon data provided by the Department of Housing and Community Development relative to the statewide need for housing, each council of governments shall determine the existing and projected housing need for its region. The Department of Housing and Community Development shall ensure that this determination is consistent with the statewide housing need and may revise the determination of the council of governments if necessary to obtain this consistency. Each locality's share shall be determined by the appropriate council of governments consistent with the criteria above with the advice of the department subject to the procedure established pursuant to

subdivision (c).

(b) For areas with no council of governments, the Department of **Housing and Community Development** shall determine housing market areas and define the regional housing need **for** localities within these areas. Where the department determines that a local government possesses ~~the~~ capability **and** resources **and** has **agreed to** accept the responsibility, with respect to its jurisdiction, **for** the identification **and** determination **of** housing market areas and regional housing needs, the department shall delegate this responsibility to the local governments within these areas.

(c) Within 90 days following a determination **of** a council of governments pursuant to subdivision (a), or the department's determination pursuant to subdivision (b), a local government may revise the definition of its share of the regional housing **need**. The revised share shall be based upon available data and accepted planning **methodology**, and supported **by** adequate documentation. Within 60 days of the local government's revision, the council of governments or the department, **as the case may be, shall accept the** revision **or** shall indicate, based **upon** available data **and** accepted planning methodology, why ~~the~~ revision is inconsistent with ~~the~~ regional housing need. The housing element **shall** contain an analysis of the factors **and** circumstances, with all supporting data, **justifying** the revision. **All materials and data used to justify any revision shall** be made available upon request by **any** interested party within 45 days upon payment of reasonable costs of reproduction unless such costs are waived due to economic hardship.

(d) Any authority to review and revise a local government's share of the regional housing need granted under this section shall not constitute authority to revise, approve, or disapprove ~~the manner in~~ which the local government's share of the regional **housing need** is implemented through its housing program.

65585. (a) Each city, county, and city **and county shall** consider ~~the~~ guidelines adopted by the Department of Housing and Community Development pursuant to Section 50459 of the **Health and Safety Code** in preparation and amendment **of the housing** element pursuant to this article. Such guidelines shall **be** advisory to each local government in order **to** assist it in ~~the~~ preparation **of** its housing element.

(b) At least 90 days prior to adoption of the housing element pursuant to this article **and** Section 65357, **or** at least 45 days prior to the adoption **of** an amendment to this element, the planning agency of a city, county, or city **and county** shall submit a draft of the element or amendment to the Department of Housing **and** Community Development. The department shall review drafts submitted to it and report its findings to the planning agency within 90 days **of** receipt **of** the draft in the case of adoption of the housing element pursuant to this article, **or** within 45 days of receipt of the draft **in** the case **of an** amendment. The legislative body shall consider the

department's findings prior to final adoption of the housing element or amendment.

(c) Each local government shall provide the department with a copy of its adopted housing element or amendments. The department may review adopted housing elements or amendments and report its findings.

(d) Except as provided in Section 65586, any and all findings made by the Department of Housing and Community Development pursuant to subdivisions (b) and (c) shall be advisory to the local government.

65586. Local governments shall conform their housing elements to the provisions of this article on or before October 1, 1981. Jurisdictions with housing elements adopted before October 1, 1981, in conformity with the housing element guidelines adopted by the Department of Housing and Community Development on December 7, 1977, and located in Subchapter 3 (commencing with Section 6300) of Chapter 6 of Part 1 of Title 25 of the California Administrative Code, shall be deemed in compliance with this article as of its effective date. A locality with a housing element found to be adequate by the department before October 1, 1981, shall be deemed in conformity with these guidelines.

65587. (a) Each city, county, or city and county shall bring its housing element, as required by subdivision (c) of Section 65302, into conformity with the requirements of this article on or before October 1, 1981. No extension of time for such purpose may be granted pursuant to Section 65302.6, notwithstanding its provisions to the contrary.

(b) Any action brought by any interested party to review the conformity with the provisions of this article of any housing element or portion thereof or revision thereto shall be brought pursuant to Section 1085 of the Code of Civil Procedure; the court's review of compliance with the provisions of this article shall extend to whether the housing element or portion thereof or revision thereto reasonably complies with the requirements of this article.

65588. (a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

(1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.

(2) The effectiveness of the housing element in attainment of the community's housing goals and objectives.

(3) The progress of the city, county, or city and county in implementation of the housing element.

(b) The housing element shall be revised as appropriate, but not less than every five years, to reflect the results of this periodic review, except that the first such revision shall be accomplished by July 1, 1984.

65589. (a) Nothing in this article shall require a city, county, or city and county to do any of the following:

(1) Expend local revenues for the construction of housing, housing subsidies, or land acquisition.

(2) Disapprove any residential development which is consistent with the general plan.

(b) Nothing in this article shall be construed to be a grant of authority or a repeal of any authority which may exist of a local government to impose rent controls or restrictions on the sale of real property.

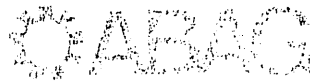
(c) Nothing in this article shall be construed to be a grant of authority or a repeal of any authority which may exist of a local government with respect to measures that may be undertaken or required by a local government to be undertaken to implement the housing element of the local general plan.

(d) The provisions of this article shall be construed consistent with, and in promotion of, the statewide goal of a sufficient supply of decent housing to meet the needs of all Californians.

SEC. 4. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 5. Section 2 of this act shall become operative October 1, 1981.

O



Association of Bay Area Governments

Hotel Claremont • Berkeley, California 94705 • (415) 841-9730

August 14, 1981

RECEIVED

Mr. David Janssen, Chairman
State Board of Control
926 J Street, Suite 300
Sacramento, CA 95814

AUG 17 1981

STATE BOARD OF CONTROL

Dear Mr. Janssen:

This letter responds to comments prepared by State agencies with respect to ABAG's claim (SB 90-3929), which will be considered by the Board on August 19. There is no need to respond to Department of Finance comments, since DOF's August 13 memorandum asserts its agreement with our position that Chapter 1143, Statutes of 1980 (AB 2853) does impose a mandate on councils of governments.

We understand that the Office of Planning and Research on August 3 advised the Board that the views expressed by the Department of Housing and Community Development represent the policy views of the Administration. It is presumed here that OPR's comment refers to the August 7 memorandum from H&CD Deputy Director Olena Berg.

The H&CD memorandum unfortunately attempts to cloud, once again, the simple fact that AB 2853 imposed a new, reimbursable mandate on ABAG and other councils of governments. The memorandum itself acknowledges earlier comments of January 9 and April 29 to the Boards of Control; these memoranda concede AB 2853 imposes new mandates on COGs.

H&CD also asks the Board to delay action on ABAG's claim, arguing that AB 894 would "resolve" the question of whether AB 2853 imposes a new mandate on COGs. Such a request is not only presumptuous of legislative action, it continues the reprehensible attitude displayed by the Department to the requirements of law for reimbursement of State-mandated costs.

AB 894, as it may be adopted, could conceivably remove the housing planning mandates imposed on COGs by AB 2853. However, such an act by the Legislature would serve only to change the requirements of existing law on the date of enactment of AB 894. COG expenditures incurred between January 1, 1981 and the effective date of AB 894, if this bill is chaptered, are expenditures fully reimbursable by the State under Article XIII B,

Mr. David Janssen

August 14, 1981

Page two

Whether AB 894 may or may not become law has no proper bearing on the Board's decision on ABAG's claim, and we ask that the Board disregard H&CD's assertions that AB 894 is expected to become law later this month; it is our view that AB 894 will not be enacted in its present form, if enacted at all.

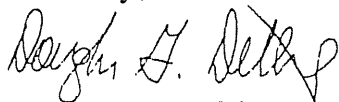
The issue before the Board is very simple, and we respectfully ask that you approve ABAG's claim of first impression.

As for H&CD's comments with respect to our actual costs, ABAG again states that such expenditures were incurred to enable ABAG to meet the requirements imposed on it by AB 2853. ABAG and other major California COGs have expended considerable funds, in good faith, to meet the requirements of AB 2853.

ABAG has proceeded to meet these requirements on the basis of its substantial experience as a comprehensive planning agency. The language of Section 65584 specifically requires comprehensive considerations in housing needs assessment. It is the COGs' approach--doing a credible, technically and legally defensible, and publicly acceptable job (by that we mean approvable by local as well as regional policy-makers as required by provisions of AB 2853)--that lies at the heart of H&CD's "concerns." In view of the fact that the Department has to date failed to meet the requirements of this law (in terms of defining the "Statewide need for housing"), we seriously question whether H&CD's comments on our work program have any legitimacy. H&CD has had ABAG's basic work program for AB 2853 work since October 1980. In the intervening 10 months, ABAG has yet to receive any substantive comments that would lead us to conclude the approach defined by our work program should be abandoned in favor of another one.

In fact, it was ABAG staff's judgment, after proceeding to do what AB 2853 specifically requires, that led to certain modifications in this work program (from the 1980 version) and the resulting decrease of nearly \$225,000 in our estimated costs. TO put our claim in perspective, the total actual and estimated cost of \$123,550 represents an expenditure of \$1,235 per jurisdiction for the 100 counties and cities with whom we have to work directly over the next few months to complete the mandated activities of a council of governments under AB 2853.

Sincerely,



Douglas G. Detling
Legislative Affairs Officer

cc: Edwin Beach
Theresa Cook
Peter Pelkofer
Zev Yaroslavsky
Gary Longholm
Ray Banion

SECTION 2

Attachment

Memorandum

To : Don Provost
State Board of Control

Date: August 3, 1981

Telephone: ATSS ()
()

From : **Governor's Office**
Office of Planning and Research - Jay Stewart *JRS*

Subject: Housing Element Claim No. SB 90-3929

In response to your July 23, 1981 request for OPR recommendations on the Association of Bay Area Governments' housing element test claim, this office has no comments. The Department of Housing and Community Development is representing the Administration on this matter.

Memorandum

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Attachment
B

AUG 7 1981

To : State Board of Control
926 J Street, Suite 300
Sacramento, CA 95814

Date: August 7, 1981

STATE BOARD OF CONTROL

Telephone: ATSS ()
()

E. Olenchuk, Jr.
From : I. Donald Turner, Director 5-4775
Department of Housing and Community Development

Subject: ABAG SB 90 Claim Dated July 22, 1981

The Department requests that the Board of Control conducts its hearing on the ABAG claim in September. Assemblyman Mike Roos, author of AB 2853, is carrying a bill (AB 894) which will resolve the question of possible new mandates imposed on COG's by AB 2853 (see attached). AB 894 would amend the provisions of AB 2853 to establish that if a COG does not perform a housing allocation plan, as required by AB 894, this function shall become the responsibility of the Department of Finance. It is anticipated that AB 894 will be enacted later this month.

The department has previously presented its views with respect to whether AB 2853 currently imposes new mandates on COG's. (See correspondence to the Board dated January 9 and April 29, 1981.)

Pending the passage of AB 894 or a decision by the Board with respect to any new mandates imposed by AB 2853, the Department has not attempted an indepth analysis of ABAG's newest claim in the amount of \$123,550.53. However, we do have concerns about some tasks in the work program that we do not believe are required by AB 2853, even if portions of AB 2853 are found to be a new mandate. In addition, we seriously question the bulk of the activities conducted between January 1 and May 19, 1981 that compose ABAG's claim for "costs incurred" (Attachment A). Most of these activities are not required by AB 2853 and bear little, if any, relation to the preparation of a regional housing allocation plan.

Upon resolution of the AB 2853 mandate question, and if the Board should determine that reimbursement is appropriate, the Department will be glad to undertake a more detailed analysis of ABAG's claim to assist the Board in developing its parameters and guidelines.

Attachment

Memorandum

Date : AUG 13 1981

To : Gary L. Longholm, Executive Secretary
State Board of Control

From : Department of Finance

Subject: Board of Control Claim No. SB 90-3929, Association of Bay Area Governments,
for \$123,550.53, Regional Housing Needs.

Basis of Claim

The claimant contends that Chapter 1143, Statutes of 1980, relating to determining regional housing needs has resulted in additional State mandated costs.

Summary of Finding

The Department of Finance finds that Chapter 1143 does impose a mandate on councils of governments to determine regional housing needs.

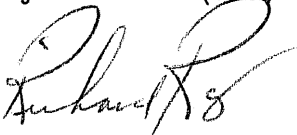
Analysis


Chapter 1143, Statutes of 1980 (AB 2853) requires that "each council of governments shall determine the existing and projected housing need for its region. . . (which) shall, based on available data, take into consideration market demand for housing employment opportunities, the availability of suitable sites and public facilities, commuting patterns, type and tenure of housing need, and the housing needs of farmworkers. The distribution shall seek to avoid further impaction of localities with relatively high proportions of lower income households."

The Association of Bay Area Governments alleges that it incurred \$24,125.53 in additional expenditures from January 1 through May 15, 1981, to meet these requirements and that an additional \$99,425 will be required during the 1981-82 fiscal year.

The Department of Finance has reviewed this claim and finds that there were no previous requirements of this type imposed on councils of governments and that therefore Chapter 1143, Statutes of 1980 does impose a new requirement on councils of governments which result in State-mandated costs. Pursuant to Chapter 242, Statutes of 1980 (AB 20), councils of governments are defined as "local agencies" on and after July 1, 1980 and thus have standing to present claims to the five-member Board of Control,

If you have any questions regarding this finding, please contact James Apps of my staff at (916) 445-8913.



 John P. Caffrey
Program Budget Manager

cc: Peter Schaafsma, Legislative Analyst's Office
Carolyn Burton, Department of Housing and Community Development
Jay Stewart, Office of Planning and Research

2590F

Memorandum

Attachment
6-1

To : Mr. Ray Banion
State Board of Control

Date: January 9, 1981

E. Elena Berg, for
I. Donald Turner, Director
From : Department of Housing and Community Development
Office of the Director

Deni Greene, for
Deni Greene, Director
Office of Planning & Research

Subject: Reimbursement to Councils of Government for State-mandated Costs Pursuant to AB 2853

In accordance with your request for our comments on the claims of various councils of government for reimbursement of state-mandated costs resulting from the enactment of AB 2853, kindly be advised as follows:

- (1) Article XIII (b) of the California Constitution appears to give COGs the standing to submit claims which they lacked under the Revenue and Taxation Code.
- (2) That provision of the Constitution does not specify an administrative process or administering entity for claims from COGs; thus, there may be some doubt about the authority of the State Board of Control to hear such claims.
- (3) AB 2853 seems to create a new mandate within the meaning of Article XIII (b) to the extent that COGs are now required to include market rate housing in their allocations of regional housing needs. COGs have already done, or had done for them, allocations of non-market rate households.
- (4) The extent to which this mandate results in the incursion of new costs by COGs will depend upon a number of circumstances which may vary from region to region. We have not attempted to evaluate the claims currently before you, on the theory that such an examination should await the establishment of administrative responsibility pursuant to Article XIII (b).

I trust these brief comments, will be of use and that you will advise us of any additional information that may be of interest to the Board.

Memorandum

To : Olena Berg, HCD

RECEIVED

Date: April 9, 1981

APR 11 1981

STATE BOARD OF CONTROL

Telephone: ATSS ()
()

From : Governor's Office 2-6312

Office of Planning and Research - Jay Stewart, Local Government Unit

Subject : COGs' Housing Allocations

Here is *my* analysis of the reimbursement claims filed by COGs for work required by AB 2853, as you requested. It has been revised based on the Board of Control's April 7th hearing and a partial review by Carolyn Burton. Two policy questions need to be resolved by HCD before this is finalized:

- (1) When must a COG complete its first regional housing allocation to comply with the AB 2853? I suggest no later than June 30, 1981.
- (2) Is work previously required by the 1977 Guidelines legally a **pre-existing** mandate, not newly imposed by the AB 2853? What specifically is **new**? I suggest that the inventory and analysis work required by Government Code Section 65584(a), and the market rate allocation are the new requirements.

Provided that this reflects department policy accurately, I recommend that we send a final version to all COGs and affected State agencies well in advance of the Board of Control's May 5th meeting, when they will consider COG claims for actual costs.

JS/me

cc: Ray Banion
Carolyn Burton
Jim Burton
Peter Detwiler
Ron Joiner
Paul Turner

Memorandum

ATTACHMENT
B-2

To : Three-Member Board of Control

Date: April 29, 1981

From : Carolyn Burton, Deputy General Counsel
Department of Housing and Community Development
Office of the DirectorSubject: COG claims under AB 2853
(Numbers 82978-82983)

RECEIVED

APR 30 1981

STATE BOARD OF CONTROL

BACKGROUND

In 1967 the Legislature established the housing element as one of the mandatory elements of the General Plan "consisting of standards and plans for the improvement of housing and for the provision of adequate sites for housing" (Government Code Section 65302(c)). In 1971 the housing element requirement was amended to require that the housing element adopted by local government "make adequate provision for the housing needs of all economic segments of the community" and that it "be developed pursuant to regulations" adopted by the Department of Housing and Community Development pursuant to Section 50459 of the Health and Safety Code. Such regulations, entitled "Housing Element Guidelines", were first adopted by the Department in 1971 and were subsequently revised in 1977.^{1/} These regulations, adopted in accordance with the Administrative Procedure Act as required by the Health and Safety Code, impose mandatory requirements on local governments with respect to housing element contents.^{2/}

In 1980, the Legislature passed AB 2853 which placed in the Government Code the basic requirements of the Housing Element Guidelines. In addition, AB 2853 set forth procedures and deadlines for adoption of revised housing elements. In broad terms, consistent with the previous requirements of the regulations, AB 2853 requires that a local housing element consist of "an identification and analysis of

1/ See HCD's determination that the Guidelines do not require reimbursement under SB 90, attached.

2/ This is the legal opinion of the department and the Office of the Attorney General. Recently the Court of Appeals, Second District, ruled that the Housing Element Guidelines are advisory only. (Bownds v. City of Glendale (1980), 113 Cal.App.3d 875.) However, absent a decision of the Supreme Court affirming this view, and in the face of continuing litigation on this issue, the Department continues to assert that the Housing Element Guidelines are mandatory regulations.

April 29, 1981

existing projected housing needs, and a statement of goals, policies, quantified objectives, and scheduled programs for preservation, improvement, and development of housing." (Government Code Section 65583) Cities and counties must adopt a housing element by October 1, 1981, that conforms to the requirements of AB 2853. However, jurisdictions which have already adopted housing elements in conformity with the Housing Element Guidelines are "deemed in compliance" with the requirements of AB 2853.

Both the Housing Element Guidelines and AB 2853 call for regional Councils of Governments (COG's) to prepare housing allocation plans in order to establish each locality's share of the regional housing need. While there are some differences between the requirements of the Housing Element Guidelines and AB 2853 (discussed below), it is difficult to quantify whether or not these differences will result in increased costs. The Department's overall perception is that while there are some new mandates that impose additional costs on COG's, AB 2853 also decreases previously-mandated COG activities which will result in some offsetting savings.

FAIR SHARE ALLOCATION PLANS UNDER THE HOUSING ELEMENT GUIDELINES

The Housing Element Guidelines state as follows:

"The Department of Housing and Community Development shall, for each general housing market area within the state, prepare or delegate preparation of, as provided in 6424 of these regulations, the fair share allocation plan." 25 C.A.C. Section 6420.

Pursuant to this directive to either "prepare or delegate preparation of" the fair share allocation plan, Section 6420 establishes that "each Council of Government is delegated the preparation of a fair share allocation plan for the housing market or markets within its geographical jurisdiction." This section also sets forth the deadline for the preparation of such allocations by the COG's and establishes: "If the Council of Government does not allocate market area housing needs among the localities within a general housing market area by July 1, 1978, the Department shall perform the housing needs allocation which had been delegated to the regional planning body."

To summarize these requirements, the regulations imposed upon COG's the mandate to prepare a fair share plan through a formal delegation of this responsibility by the Department pursuant to its authority to so delegate provided by section 6420.

The Housing Element Guidelines provide direction and criteria to COG's for preparation of the Fair Share Allocation Plan. The plan

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"should focus on non-market rate households", although an allocation plan can incorporate market-rate households at the COG's discretion. (Section 6426) Section 6428, which provides specific direction, is set forth in its entirety below:

"Content of Fair Share Allocation Plan. Each fair share allocation plan shall

- (a) Identify the general housing market to which it applies;
- (b) Estimate by tenure and rent/sales price the immediate and projected regional housing needs of non-market rate households. Estimates should include the following categories: (1) household size, (2) elderly, (3) such other special needs as are deemed appropriate by the allocating entity. The estimate of projected needs should extend over at least a three year period following the effective date of the plan.
- (c) Assign to each locality a fair share of the need estimated in (b) of this section.

Under a subsequent section, the COG is given discretion to establish its own distribution criteria for allocating fair share figures to each locality. However, such allocation criteria are required to be consistent with the policy objectives of the Guidelines, which objectives include "the development of a balanced residential environment with access to employment opportunities, community facilities, and adequate services".

Pursuant to these requirements, nine COG's prepared fair share allocation plans in 1978-79. Failure on the part of ABAG and three other COG's to prepare fair share plans as mandated, shifted the burden to the Department to prepare them since the Guidelines specifically provided that if the COG does not prepare the plan, "the department shall perform the housing needs allocation which had been delegated to the regional planning body."

HOUSING NEEDS ALLOCATION UNDER AB 2853

There are some differences between the requirements for regional fair share plans under the Housing Element Guidelines and under AB 2853. For purposes of eliciting these differences, the relevant portion of the statute is set forth below:

April 29, 1981

65584. (a) For purposes of subdivision (a) of Section 65583, a locality's share of the regional housing needs includes that share of the housing need of persons at all income levels within the area significantly affected by a jurisdiction's general plan. The distribution of regional housing needs shall, based upon available data, take into consideration market demand for housing, employment opportunities, the availability of suitable sites and public facilities, commuting patterns, type and tenure of housing need, and the housing needs of farmworkers. The distribution shall seek to avoid further impaction of localities with relatively high proportions of lower income households. (Based upon data provided by the Department of Housing and Community Development relative to the statewide need for housing, each council of government shall determine the existing and projected housing need for its region. The Department of Housing and Community Development shall ensure that this determination is consistent with the statewide housing need and may revise the determination of the council of government, if necessary, to obtain this consistency. Each locality's share shall be determined by the appropriate council of government consistent with the criteria above with the advice of the department subject to the procedure established pursuant to subdivision (c).

A. New Mandates

(1) Comparing these requirements with the previous requirements set forth in the Guidelines, the following differences appear. There is a new mandate to prepare a regional housing needs allocation for all income levels within the region. (The Department has advised COG's that this can be accomplished by adding to the existing categories of low and moderate income a third category which is all households above the moderate income limit.)

AB 2853 provides specific distribution criteria, whereas under the Guidelines, COG's were granted discretion to establish such criteria so long as employment opportunities and public facilities were included as a basis for distributing housing needs. For example, under the new law, the distribution of regional housing needs must take into consideration the availability of sites, commuting patterns, and shall seek to avoid further impaction of localities with relatively high proportions of lower income households. These specific criteria were not mandated under the Guidelines although SCAG, for example, included these factors in preparing its fair share plan in an exercise of its discretion.

April 29, 1981

B. Offsetting Savings

AB 2853 has eliminated some of the fair share planning requirements that should result in savings by COG's. Under the Guidelines the COG was required to (1) identify the area to which the plan would apply; and (2) estimate immediate and projected housing needs of households by (a) tenure and rent/sales price; and (b) by categories with respect to household size, elderly, and other special needs. Under 2853, COG's no longer have to identify the "housing market area"; they simply prepare the plan for those jurisdictions within their region. Also under the new law the department will provide to each COG housing needs data by county which provides the basis for the COG's determination of existing and projected housing needs for its region (an amalgamation of one or more counties).

It is extremely important to note that AB 2853 establishes that the housing needs allocation shall be "based upon available data". Unlike the requirements as set forth for the plan under the Guidelines which prompted the generation of new data, COG's will not be required to generate new data under 2853. This should result in significant cost savings relative to the regional housing allocation plan preparation pursuant to the Guidelines.

THE COG CLAIMS

As of this date, the department has not been provided with documentation of any costs incurred by COG's in preparation of fair share plans under AB 2853. Therefore, it has not been possible to perform cost analysis of the preparation of fair share plans under the previous requirements relative to the cost of preparation of housing allocation plans under AB 2853 and to quantify the "increased costs" which may result from the mandate of AB 2853. While it is clear that there may well be such increased costs related to the new mandates, these costs will be offset by cost savings resulting from reduced mandates for housing allocation plans under the new law. Again, the department has insufficient information to determine the extent of such offsetting savings.

We have reviewed the work programs of the various COG's submitted earlier this year which projected estimated costs for preparation of housing allocation plans. It is apparent that many, if not most of the claimed items are not costs mandated by AB 2853.

The ABAG work program, the components of which are representative of several other work programs, is analyzed below for illustrative purposes. The following tasks, although reflective of sound planning methodology, are clearly not mandated by AB 2853.

April 29, 1981

- (1) Creation of a policy "oversight" committee.
- (2) Reconciliation of HCD housing data with projections used in other planning and program activities.
- (5) Assessment of impact of allocation plan on other regional plans and programs.
- (6) Review of draft report with cities and counties.
- (7) Modification of draft to reflect local comments.
- (8) Adoption of plan by policy committee.
- (9) Coordination of allocation plan with AHOP.
- (10) Monitoring housing element adoption and implementation.
- (11) Management and administrative oversight.

Only tasks 3 and 4, the development of the allocation model and preparation of the plan report, include new mandates under AB 2853; and even these tasks, as detailed, include some requirements that previously existed under the Housing Element Guidelines and therefore should not result in increased costs.

SECTION 3

STATE BOARD OF CONTROL

926 J STREET, SUITE 300

SACRAMENTO, CALIFORNIA 95814



July 23, 1981

Acting Executive Director
Association of Bay Area Governments
Hotel Claremont
Berkeley, CA 94705

Attn: Eugene Z. Leong

RE: Claim of Association of Bay Area Governments
(Assembly Bill 2853, Chapter 1143, Statutes of 1980, 1981-82 F.Y.)
vs. State of California - No. SB 90-3929

Dear Mr. Leong:

Pursuant to Revenue and Taxation Code Section 2253(b), the above-named test claim was filed with the Board of Control on July 23, 1981. The claim is a test claim requesting the Board to consider whether reimbursable "state mandated costs" resulted from regional housing needs which must be considered by Councils of Governments (COG) preparing mandatory housing elements of general plans at the request of local governments. The meeting will be held in Room 587, State Office Building #1, 915 Capitol Mall, Sacramento, California on August 19, 1981, at 9:00 a.m.

In order to decide on the mandated cost issue, the Board requests that all state agencies receiving this letter consider the merits of the claim and make recommendations on its validity under the SB 90 provisions of the Revenue and Taxation Code, contained in Sections 2203-2217 and 2231-2251.

State agency recommendations should include whether a representative will appear at the hearing. Some departments may be required to send a representative. All state agency recommendations will be forwarded to claimants and their representatives immediately upon receipt by this office,

In order to allow the claimants and their representatives sufficient time to respond to any issues raised, written state agency recommendations must be received by this office no later than August 3, 1981.

Essentially, a claim submitted to the Board for unfunded state mandated costs is valid only if it meets the following criteria:

1. The claim must be submitted by a local agency, which includes cities,, counties, and special districts, or by a school district. A "special district", as defined in Revenue and Taxation Code Section 2215, means any local governmental agency other than a city, county, or school district which is authorized by statute to levy a property tax rate. County fire protection districts, road districts, and free libraries are also special districts,
2. The claim must allege a mandate in:
 - a. A law enacted after January 1, 1973, which mandates a new program or an increased level of service of an existing program,

- b. An Executive Order that mandates a new program or an increased level of service of ~~an~~ existing program and either 1) affects local agencies and ~~was~~ issued after January 1, 1973; or 2) affects school districts and ~~was~~ issued after January 1, 1978.
 - c. An Executive Order issued after January 1, 1978, which (1) implements or interprets a state statute, and (2) by such implementation or interpretation, increases program levels above the levels required of school districts prior to January 1, 1978, or of local agencies prior to January 1, 1973. (Revenue and Taxation Code, Section 2207, 2207.5)
3. The Bill or Executive Order must either:
- a. Contain a disclaimer of additional mandated costs to local governments.
 - or,
 - b. Contain neither a disclaimer nor an appropriation to reimburse the claimant for such costs, (Revenue and Taxation Code, Section 2253).
4. The amount claimed must exceed \$200 and include **only** actual costs incurred. (Revenue, and Taxation Code; Section 2253.2)
5. A claim is not valid if any of the **following** applies:
- a. The chaptered bill was requested by ~~or~~ on behalf of a local agency which desired legislative authority to implement the program ~~specified in the bill,~~
 - b. The bill affirmed for the state that ~~which~~ had been declared existing law or regulation by action of the courts,
 - c. The chaptered bill mandated costs which do not exceed the cost of implementing a federal law or regulation.
 - d. The claimant **has** the authority to levy service **charges**, fees, or assessments sufficient to pay for the mandated program or level of service.
 - e. The **bill** imposed duties **which** were expressly approved by a majority of the voters of the State through the initiative process,
 - f. The bill created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, The bill provided for offsetting **savings** to local agencies which resulted in no net costs to such **local** agencies.
 - h. The bill created, changed ~~or~~ eliminated a crime or infraction (or the resulting penalty) and the **alleged** mandated costs resulted from that portion of the bill relating to the enforcement of that crime or infraction,

Based upon information provided by **all** interested parties, the **Board** will determine whether the **claim** meets the statutory requirements. Should the Board determine that a mandate does exist, then parameters and guidelines for reimbursing all **eligible** local entities will be developed. Your cooperation in the preparation of **the** parameters and **guidelines** may be requested,

If you have any questions, please contact me. Thank you for your anticipated cooperation.

Sincerely,



DON A. PROVOST

Assistant to the Executive Secretary
(916) 323-3562

DP/plf

cc:

Department of Finance, Local Mandate Unit RECOMMENDATION DUE: August 3, 1981

Controller, Financial Accounting INFORMATION ONLY

Legislative Analyst, Betty Masuka

Office of Planning and Research RECOMMENDATION DUE: August 3, 1981

County Supervisors Association of California INFORMATION ONLY

League of California Cities INFORMATION ONLY

Department of Housing and Community Development RECOMMENDATION DUE: August 3, 1981

Test Claim of
ASSOCIATION OF BAY AREA GOVERNMENTS
(Ch. 1143, Statutes of 1980, 1980-81 F.Y.)

Alleged Mandates: Ch. 1143/80 (Housing Elements: Regional Share of Housing Need)

Authority: Revenue and Taxation Code Section 2253(b), governing chaptered legislation containing neither appropriation for not a disclaimer of mandated costs.

Statement of Claim

The Association of Bay Area Governments (ABAG) alleges that Section 65584 of Ch. 1143/80 (AB 2853) mandated a "new program" upon councils of government, which consisted of:

1. determining the regional housing need for their respective regions.
2. determining each locality's share of the regional housing need: and
- 3 reviewing the "consistency" of any locality's revision of its share.

ABAG states that, as a result of this mandated program, it has incurred \$24,125.53 during the 1980-81 fiscal year and estimates it will incur \$99,425.00 during the 1981-82 fiscal year.

Department Recommendations

The Department of Finance (DOF) recommends that the Board determine a reimbursable mandate exists. (See Attachment "A")

The Office of Planning and Research (OPR) states that the "Department of Housing and Community Development represents the Administration on this matter. OPR has no comments. (See Attachment "B")

The Department of Housing and Community Development (HCD) recommends that a mandate does exist for councils of government. However, HCD also recommends that the Board continue this claim to the September hearing because a proposed bill (AB894) may become legislation which, HCD believes, would resolve the question of possible new mandates imposed on COG's by AB 2853 (See Attachments "C", "C-1" and "C-2").

Staff Analysis

A. Background

Both the 5-member and 3-member Boards of Control have considered ABAG's claim under AB2853. On January 21, 1981, the 5-member Board ruled that it has no statutory authority to hear 14 COG claims (including ABAG's) because COG's were not among the local entities authorized to file claims before the 5-member Board.

In response to this action, ABAG and other COG's filed claims with the 3-member Board. After two hearings, the 3-member Board denied all COG claims under AB2853 on June 16, 1981.

Subsequent to the 3-member Board's action, AB 20 was enacted (See Behind Claim), which, in concert with the provisions of Article XIII B of the State Constitution (Proposition 4-Gaun), amends Revenue and Taxation Code Section 2211 to define "local agency" as "any city, county, special district, authority or other political subdivision of the state". Due to this change (effective retroactively to July 1, 1980), ABAG believes it

now qualifies as a "local agency" eligible to file a test claim before the 5-member Board.

B. Analysis :

There are two issues that the Board may wish to consider concerning this claim.

1. Are COG's eligible under Section 2211 of the Revenue and Taxation Code as amended?

ABAG is organized pursuant to the Joint Exercise of Powers Act (Chapter 5 of Division 7 of Title 1 of the Government Code). It is a regional planning district determined in accordance with Section 65040.4 of the Government Code. Claimant makes reference to Legislative Counsel Opinion No. 15805, and DOF memorandum of December 2, 1980 to Robert J. Beckus, representing ABAG; and DOF memorandum of January 8, 1981 to the Board of Control RE: SB 90-3581 an analyses which gives standing to its qualification as a local agency. Staff concurs with DOF that COG's are local agencies.

2. Is there a reimbursable "new program" mandated upon COG's? Board staff concurs with the findings of HDC and DOF that new mandates are imposed upon COG's.

SECTION 4

STATE BOARD OF CONTROL
August 19, 1981
Sacramento, California

The State Board of Control met in regular session in Room 587, Office Building No. 1, 915 Capitol Mall, Sacramento, California on August 19, 1981. Present were Chairperson Diane I. Kirkham, Deputy Director of General Services, acting for and in the absence of David Janssen, Director of General Services; Theresa Cook, Member; Peter Pelkofer, Deputy State Controller, acting for and in the absence of Kenneth Cory, State Controller; and Zev Yaroslavsky, Member. Absent was Edwin Beach, Member.

There being a quorum present, the Chairperson called the meeting to order at 9:20 a.m.

Member Cook moved and Member Pelkofer seconded the motion to approve the minutes of the July 22, 1981 meeting.

Member Cook expressed concern that she had not received the agenda in sufficient time to adequately prepare for the meeting. After discussion, the Board adopted a policy to require that all written materials must be received by the Board two weeks prior to the scheduled hearing. Any material received after that date will not be included in the Board members' agendas or considered by the Board at the hearing. Staff was then directed to complete and transmit the agenda package one week prior to the scheduled hearing.

Member Yaroslavsky moved and Member Cook seconded the motion to approve items 1 and 2, which were claims for reimbursement of costs mandated by Chapter 593, Statutes of 1975 (Jury Duty). Motion carried, unanimously.

Chapter 593, Statutes of 1975 (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
City of Glendale #SB 90-3142	\$ 5,627.00
Town of Hillsborough #SB 90-3908	343.00

Member Pelkofer moved and Member Yaroslavsky seconded the motion to reconsider and approve items 3 through 7, which were claims for reimbursement of costs mandated by Chapter 593, Statutes of 1975 (Jury Duty for Firefighters). At the request of the Board on May 20, 1981, the State Controller's Office revised the recommendations on these claims to include additional reimbursement for full 24 hour replacement of firefighters who must serve jury duty. Motion carried unanimously.

Chapter 593, Statutes of 1975 (1978-79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
City of Sacramento #SB 90-3404	\$ 460.00
City of San Diego #SB 90-3020	5,516.00

Chapter 593, Statutes of 1975 (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
City of Clovis #SB 90-3055	\$ 273.00
Daly City #SB 90-3670	783.00
City of Santa Fe Springs #SB 90-3790	743.00

Member Yaroslavsky moved and Member Cook seconded the motion to approve item 8, which was a claim for reimbursement of costs mandated by Chapter 842, Statutes of 1978 (Tuberculosis Exams for School Bus Drivers), Motion carried unanimously.

Chapter 842, Statutes of 1978 (1978-79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of San Bernardino #SB 90-3673	\$ 1,159.00

Member Yaroslavsky moved and Member Pelkofer seconded the motion to approve item 9, which was a claim for reimbursement of costs mandated by Chapter 876, Statutes of 1976 (Sentencing Transcripts). Motion carried unanimously.

Chapter 876, Statutes of 1976 (1977-78 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of San Bernardino #SB 90-3693	\$ 3,555.00

Member Yaroslavsky moved and Member Pelkofer seconded the motion to approve items 10 through 18, which were claims for reimbursement of costs mandated by Chapter 876, Statutes of 1976 (Sentencing Transcripts). Motion carried unanimously.

Chapter 876, Statutes of 1976 (1978-79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of Los Angeles #SB 90-3785	\$ 63,318.00
County of Nevada #SB 90-3727	289.00
County of Orange #SB 90-3539	14,723.00
County of San Bernardino #SB 90-3694	6,245.00

Chapter 876, Statutes of 1976 (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of Los Angeles #SB 90-3784	\$ 73,170.00
County of Nevada #SB 90-3728	341.00
County of Orange #SB 90-3538	17,330.00
County of San Bernardino #SB 90-3695	6,241.00
County of San Diego #SB 90-3754	4,586.00

Member Yaroslavsky moved and Member Pelkofer seconded the motion to approve items 19 and 20, which were claims for reimbursement of costs mandated by Chapter 961, Statutes of 1975 (Collective Bargaining). Motion carried unanimously.

Chapter 961, Statutes of 1975 (1977-78 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Fresno Unified School District #SB 90-1617B	\$ 46,518.00
Oak Grove Elementary School District #SB 90-3743	22,351.00

Member Cook moved and Member Yaroslavsky seconded the motion to approve item 21, which was a claim for reimbursement of costs mandated by Chapter 984, Statutes of 1977 (Developmental Disabilities). Motion carried unanimously.

Chapter 984, Statutes of 1977 (1978-79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of San Bernardino #SB 90-3798	\$ 2,056.00

Member Pelkofer moved and Member Yaroslavsky seconded the motion to deny item 22, which was a claim for reimbursement of costs mandated by Chapter 1046, Statutes of 1976 (Property Appraisals). Motion carried unanimously.

Chapter 1046, Statutes of 1976 (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of San Diego #SB 90-3556	\$ -0-

Member Yaroslavsky moved and Member Cook seconded the motion to approve item 23, which was a claim for reimbursement of costs mandated by Chapter 1139, Statutes of 1976 (Determinate Sentencing). Motion carried unanimously.

Chapter 1139, Statutes of 1976 (1977-78 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of Tehama #SB 90-1801	\$ 1,733.00

Member Yaroslavsky moved and Member Cook seconded the motion to continue item 24, which was a claim filed by County of Tehama (#SB 90-1802, 1978-79 F.Y.) for reimbursement of costs mandated by Chapter 1139, Statutes of 1976 (Determinate Sentencing). The Controller's Office requested continuation of this claim as a revised recommendation on the claim is being prepared and forwarded to the claimant. Motion carried unanimously.

Member Yaroslavsky moved and Member Cook seconded the motion to approve items 25 and 26, which were claims for reimbursement of costs mandated by Chapter 1139, Statutes of 1976 (Determinate Sentencing). Motion carried unanimously.

Chapter 1139, Statutes of 1976 (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of Madera IISB 90-3846	\$ 19,107.00
County of Siskiyou IISB 90-3841	2,652.00

Member Pelkofer moved and Member Cook seconded the motion to approve item 27 in the amount recommended by the Controller's Office, which was a claim of the City of Los Angeles (#SB90-3523, 1979-80 F.Y.) for reimbursement of costs mandated by Chapter 1146, Statutes of 1978 (Destruction of Animals). Member Pelkofer so moved with the understanding that the portion claimed by the City of Los Angeles for certain operating supplies and administrative costs would be discussed at the November 1981 hearing in conjunction with the 1978-79 F.Y. City of Los Angeles claim under the same mandate. Motion carried by unanimous vote.

Chapter 1146, Statutes of 1976 (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
City of Los Angeles IISB 90-3523	\$ 211,202.00

Member Yaroslavsky moved and Member Cook seconded the motion to approve item 28, which was a claim for reimbursement of costs mandated by Chapter 1146, Statutes of 1976 (Destruction of Animals). Motion carried unanimously.

Chapter 1146, Statutes of 1976 (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
City of Petaluma #SB 90-3527	\$ 4,145.00

Member Pelkofer moved and Member Yaroslavsky seconded the motion to approve items 29 and 30, which were claims for reimbursement of costs mandated by Chapter 1176, Statutes of 1977 (Immunization Record Keeping). Motion carried unanimously. The Board further authorized staff to include the amounts approved in the estimate for 1978-79 F.Y. immunization costs contained in SB 1261.

Chapter 1176, Statutes of 1977 (1978-79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Centralia School District JISB 90-3895	\$ 9,222.00
Sierra Sands Unified School District #SB 90-3817	11,288.00

Member Cook moved and Member Yaroslavsky seconded the motion to approve item 31, which was a claim for reimbursement of costs mandated by Chapter 1215, Statutes of 1974 (School Attendance Review Board). Motion carried unanimously. The Board further authorized staff to include the amount approved in the estimate for 1978-79 SARB costs contained in SB 1261.

Chapter 1215, Statutes of 1974 (1978-79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Porterville School District #SB 90-3638	\$ 9,018.00

Member Pelkofer moved to continue item 32, which was a claim filed by the County of Sacramento (SB 90-3809, 1979-80 F.Y.) for reimbursable *costs mandated by Chapter 1242, Statutes of 1977; Chapter 43, Statutes of 1978 (Senior Citizen Property Postponement). Motion carried unanimously.

Member Pelkofer moved and Member Cook seconded the motion to approve items 33 and 34 which were claims for reimbursement of costs mandated by Chapter 1242, Statutes of 1977; Chapter 43, Statutes of 1978 (Senior Citizen Property Tax Postponement). Motion carried unanimously.

Chapter 1242, Statutes of 1977; Chapter 43, Statutes of 1978 (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of Santa Clara JISB 90-3776	\$ 4,026.00

Chapter 1242, Statutes of 1977; Chapter 43, Statutes of 1978 (1979–80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of Santa Cruz #SB 90–3896	\$ 1,494.00

Member Yaroslavsky moved and Member Pelkofer seconded the motion to approve items 35 and 36, which were claims for reimbursement of costs mandated by Chapter 1275, Statutes of 1975 (Eminent Domain Public Hearings). Motion carried unanimously.

Chapter 1275, Statutes of 1975 (1978–79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Contra Costa County #SB 90–3091	\$ 12,510.00

Chapter 1275, Statutes of 1975 (1979–80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
City of Oakland, Redevelopment Agency #SB 90–3488	\$ 103,606.00

Member Pelkofer moved and Member Cook seconded the motion to approve items 37 through 51, which were claims for reimbursement of costs mandated by Title 8, Art. 10.1, Sec. 3401–9, CAC 1978–79 F.Y. (Firefighters Safety Clothing and Equipment). Motion carried unanimously.

Title 8, Art. 10.1, Sec. 3401–9, CAC (1978–79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Alpine Fire Protection District #SB 90–3162A	\$ 794.00
Arden Fire Protection District #SB 90–3154	1,242.00
Central Fire Protection District #SB 90–3741	16,330.00
City of Chula Vista #SB 90–3085A	1,418.00
City of Hayward JFSB 90–3243A	3,743.00
City of Marysville #SB 90–3852	730.00
Mill Valley #SB 90–3823	2,871.00

Title 8, Art. 10.1, Sec. 3401-9, CAC (1978-79 F.Y.) cont.

<u>Claimant</u>	<u>Amount</u>
North Central Fire District IISB 90-3468A	\$ 327.00
City of Oceanside #SB 90-3503	\$ 1,212.00
Redwood City IISB 90-3561A	\$ 12,317.00
Rincon Valley Protection District IISB 90-3002	\$ 3,060.00
Salinas Rural Fire District #SB 90-3833	\$ 803.00
Santa Fe Springs IISB 90-3125	\$ 4,881.00
Tiburon Fire Protection District IISB 90-3739	\$ 1,967.00
City of Turlock IISB 90-3762	\$ 1,577.00

Member Pelkofer moved and Member Cook seconded the motion to continue items 52 and 54, which were claims for reimbursement of costs mandated by Title 8, CAC, Art. 10.1, Sec. 3401-9, 1978-79 F.Y. (Firefighters Safety Clothing and Equipment). The Controller's Office requested continuation for these items, in order to review relevant additional information provided by the claimants. Motion carried unanimously.

Title 8, Art. 10.1, Sec. 3401-9, CAC (1978-79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Arcata Fire Protection District #SB 90-3688	\$ 3,724.00
County of Santa Cruz #SB 90-3276	\$ 13,326.00

Member Cook moved and Member Pelkofer seconded the motion to approve item 53 and items 55 through 64 which were claims for reimbursement of costs mandated by Title 8, CAC Art, 10.1, Sec. 3401-9; 1978-79, 1979-80, 1980-81 F.Y. (Firefighters Safety Clothing and Equipment). Motion carried unanimously.

Title 8, Art, 10.1, Sec. 3401-9, CAC (1978-79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Rincon Del Diablo Fire Department IISB 90-3520	\$ 439.00

Title 8, Art. 10.1, Sec. 3401-9, CAC (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Alpine Fire Protection District #SB 90-3814	\$ 742.00
Arden Fire Protection District #SB 90-3153	\$ 457.00
City of Loma Linda #SB 90-3123	\$ 4,330.00
City of Marysville #SB 90-3853	\$ 6,956.00
Mill Valley #SB 90-3822	\$ 3,119.00
North Central Fire District #SB 90-3917	\$ 668.00
Town of Paradise #SB 90-3574	\$ 7,341.00
City of Pomona #SB 90-3806	\$ 2,589.00
Redwood City #SB 90-3560A	\$ 9,469.00

Title 8, Art. 10.1, Sec. 3401-9, CAC (1980-81 F.Y.)

<u>Claimant</u>	<u>Amount</u>
City of El Paso #SB 90-3815	\$ 3,684.00

Member Pelkofer moved and Member Yaroslavsky seconded the motion to approve items 65 and 66, which were claims for reimbursement of costs mandated by Title 8, CAC, Sec. 3014(c) (d), 3015(c), 3030(f) (k), 3132(a) (c); 3034(a), 3041(d), 3053(c), 3111(c), (Elevator Earthquake Safety). Motion carried unanimously.

Title 8, Sec. 3014(c) (d), 3015(c), 3030(f) (k), 3132(a) (c), 3034(a), 3041(d), 3053(c), 3111(c), CAC (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of Marin #SB 90-3705	\$ 772.00
County of Sacramento #SB 90-3764	\$ 2,876.00

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Member Pelkofer moved and Member Yaroslavsky seconded the motion to approve items 67 and 68, which were claims for reimbursement of costs mandated by Title 8, CAC, Sec. 3041(c), 1978-79 and 1979-80 F.Y. (Elevator Fire Safety). Motion carried unanimously.

Title 8, Sec. 3041(c), CAC (1978-79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
City of Oakland #SB 90-3793	\$ 50,191.00

Title 8, Sec. 3041(c), CAC (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
City of Oakland #SB 90-3792	\$ 73,783.00

Member Cook moved and Member Pelkofer seconded the motion to continue items 69 through 71, which were claims by the County of San Joaquin (SB 90-2983, SB 90-2984, SB 90-2985) for reimbursement of costs mandated by Title 14, CAC, Division 7, Ch. 2, 1976-77, 1977-78 1978-79 F.Y. (Solid Waste Management). The Controller's Office requested a continuation of these claims in order to respond to the claimant's rebuttal. Motion carried unanimously.

Title 14, Div. 7, Ch. 2, CAC (1977-78 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of San Joaquin #SB 90-2983	\$ 543.99

Title 14, Div. 7, Ch. 2, CAC (1978-79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of San Joaquin #SB 90-2984	\$ 30,108.00

Title 14, Div. 7, Ch. 2, CAC (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of San Joaquin #SB 90-2985	\$ 30,749.00

Member Pelkofer moved and Member Cook seconded the motion to approve items 72 through 79, which were claims for reimbursement of costs mandated by Title 15, Art. 14; Sec. 1282, CAC (Breathing Apparatus). Motion carried unanimously.

Title 15, Art. 14, Sec. 1282, CAC (1978-79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of Mono #SB 90-3733	\$ 1,216.00

Title 15, Art. 14, Sec. 1282, CAC (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Colusa County Sheriff #SB 90-3737	\$ 1,216.00
Contra Costa County #SB 90-3763	2,467.00
County of Los Angeles #SB 90-3772	14,909.00
County of San Mateo #SB 90-3869	3,426.00

Title 15, Art. 14, Sec. 1282, CAC (1980-81 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Lassen County Sheriff's Department #SB 90-3882	\$ 1,283.00
Mariposa County Jail #SB 90-3725	1,308.00
City of San Leandro #SB 90-3859	1,142.00

Member Cook moved and Member Pelkofer seconded the motion to continue items 80 and 81 at the request of the claimant. These were claims for reimbursement of costs mandated by Chapter 1071, Statutes of 1976 (Juvenile Justice). Motion carried unanimously.

Chapter 1071, Statutes of 1976

<u>Claimant</u>	<u>Amount</u>
County of Del Norte (1976-77 F.Y.) #SB 90-1406A	\$ 19,553.00
County of Del Norte (1977-78 F.Y.) #SB 90-1406A	\$ 65,575.00

Member Cook moved and Member Yaroslavsky seconded the motion to approve items 82 through 94, which were claims for reimbursement of costs mandated by Chapter 1071, Statutes of 1976 (Juvenile Justice). Motion carried.

Chapter 1071, Statutes of 1976

<u>Claimant</u>	<u>Amount</u>
County of L o Angeles (1976-77 & 1977-78 F.Y.) #SB 90-1406A	\$2,721,579.00
County of Riverside (1976-77 F.Y.) #SB 90-571	121,512.00
County of Riverside (1977-78 F.Y.) #SB 90-571A	473,270.00
County of San Diego (1976-77 F.Y.) #SB 90-1479B	118,552.00
County of San Diego (1977-78 F.Y.) #SB 90-1479B	467,826.00
County of San Joaquin (1976-77 F.Y.) #SB 90-1483A	169,011.00
County of San Joaquin (1977-78 F.Y.) #SB 90-1483A	593,826.00
Santa Barbara County (1976-77 F.Y.) #SB 90-620B	100,146.00
Santa Barbara County (1977-78 F.Y.) #SB 90-620B	51,958.00
Ventura County (1976-77 F.Y.) #SB 90-1480	141,796.00
Ventura County (1977-78 F.Y.) #SB 90-1480	431,144.00
County of Yuba (1976-77 F.Y.) #SB 90-678B	30,333.00
County of Yuba (1977-78 F.Y.) #SB 90-678B	61,587.00

The Board then considered items 95 through 97, test claims filed by Solano (SB 90-3180), Stanislaus (SB 90-3778) and Yolo (SB 90-3182) Counties alleging costs mandated by the State as a result of Chapter 463, Statutes of 1980 (IHSS Payrolling System). The claimants, represented by Tom Wilson and Allan Burdick, stated that the Department of Social Services (DSS), in implementing a centralized IHSS payrolling system, mandated the counties to perform both installation and ongoing activities. The claimants stated that costs associated with such responsibilities should be reimbursable. DSS, on the other hand, stated that they ceased assessment activities required of the claimants for two months in order to allow the claimants to assist in the installation of the payrolling system. Consequently, DSS alleged that, in ceasing assess-

ment activities, the start-up costs for payroll systems were offset by the savings resulting from reducing other requirements. After considerable debate, Member Yaroslavsky moved and Member Cook seconded the motion to find that a mandate exists in Chapter 463/80. The vote on the motion was: Member Cook, aye; Member Pelkofer, no; Member Yaroslavsky, aye; Chairperson Kirkham, no. Motion failed. However, the claimants were informed that the claim could be heard again, since they had not been approved or denied by a majority of the Board. The claimants were advised to file a request for rehearing within 10 days.

Member Yaroslavsky absented himself from the hearing. Items 98 through 102 were postponed at the requests of the claimants pending his return.

The Board then considered item 103, which was a claim by the Association of Bay Area Governments (ABAG) alleging that Chapter 1143, Statutes of 1980 (Housing Elements: Regional Share Housing Needs) mandated a new program upon the Councils of Governments (COG). There was some discussion concerning the impact of the Board's decision on cities and counties regarding this item (Member Yaroslavsky returned during the discussion). Member Pelkofer moved and Member Yaroslavsky seconded the motion to find a reimbursable mandate in Chapter 1143/80 for COG's only. Motion carried unanimously.

With the return of Member Yaroslavsky, the Board next considered item 98, a test claim (SB 90-3667) filed by the County of Santa Cruz alleging that a reimbursable mandate existed in Chapter 1039, Statutes of 1979 (School Crossing Guard). The claimants, represented by Debra Hopkins and Tony Gonzalez, stated that Chapter 1039/79 required the County to adapt a school crossing guard program. In response to the Department of Finance (DOF) recommendation that the Board not find a mandate, the claimants stated that Chapter 282/79 and 1035/79 should also be considered in this test claim. Considerable attention was given to whether the Board should consider Chapters 282/79 and 1035/79, especially since these statutes were not identified and amended into the test claim prior to the hearing. DOF stated that they could not make a recommendation regarding Chapters 282/79 and 1035/79 as their analyses focused on Chapter 1039/79. Member Pelkofer moved and Member Yaroslavsky seconded the motion that 1) the test claim be amended to include Chapters 282/79 and 1035/79 with Chapter 1039/79; and 2) it should be continued to allow State agencies to review the claim with the inclusion of these statutes. The motion carried unanimously.

The Board next considered item 106, which was a test claim filed by the County of Santa Cruz (SB 90-3714) alleging that a reimbursable mandate exists in California Rules of the Court, Rule 33(a)(2); 1978-79 F.Y. (Transcript of Probation Proceedings). As a consequence of not having the DOF and the Judicial Council of California's recommendations, Member Pelkofer moved and Member Cook seconded the motion to continue the claim. Motion carried unanimously.

The next item considered by the Board was item 99, which was a test claim filed by Shasta County (SB 90-3867) alleging the existence of a reimbursable mandate in Chapter 1349, Statutes of 1980 (Reassessment Upon Change in Ownership of Property). Member Pelkofer moved and Member Cook seconded the motion to determine that reimbursable costs mandated by the State exist under Ch. 1349/80. The motion carried unanimously.

The Board next considered items 100, 101, and 102, which were test claims filed by the City of El Monte (SB 90-3916); City and County of San Francisco (SB 90-3760); and County of Los Angeles (SB 90-3759). The claimants alleged that costs mandated by the state exist in Chapter 1143, Statutes of 1980 (Housing Elements: Locality's Share of Regional Housing Need). After considerable discussion, Member Yaroslavsky moved and Member Pelkofer seconded the motion that a reimbursable mandate exists in Ch. 1143/80 as alleged in the three claims and to direct Board staff to treat the Department of Housing and Community Development Housing Guidelines as advisory rather than mandatory during the preparation of parameters and guidelines. The motion carried unanimously.

The Board then heard item 105, which was a request by the California Youth Authority for reconsideration of the Board's July 22, 1981 determination that a reimbursable mandate existed in Title 15, CAC, Div. 4, Ch. 2, Sub. Chapter 7, Sec. 4500-5Y (Detention of Minors). After some discussion regarding whether the claim should be reconsidered, Member Cook moved and Member Pelkofer seconded the motion to deny the reconsideration because no new information was being submitted. The votes of the members were: Member Cook, aye; Member Pelkofer, aye; Member Yaroslavsky, no; and Chairperson Kirkham, aye. Motion carried.

Member Cook then absented herself from the hearing.

The Board next heard item 104, which was a test claim filed by the City and County of San Francisco (SB 90-3712) alleging that a reimbursable mandate exists in Chapter 1350, Statutes of 1980 (Original Ribbon Copy Fee). The claimant requested a continuation of the claim as a result of having a three member Board. The motion to continue the claim carried unanimously.

The Board next considered Exhibit "B" which was a request by the State Controller's Office to amend the Parameters and Guidelines for Chapter 961/75 (Collective Bargaining) as proposed. Member Pelkofer moved and Member Yaroslavsky seconded the motion to adopt the proposed changes and apply them to claims for costs incurred after June 30, 1981. The motion carried unanimously.,

Gary Longholm then made a presentation to the Board concerning control language contained in the 1981 Budget Act requiring the Board to: 1) prepare estimates of costs for unspecified mandates for which parameters and guidelines were adopted prior to January 1, 1981; 2) report to the Legislature concerning its parameters and guidelines for Ch. 961/75 (Collective Bargaining); and 3) review claims for reimbursement of costs resulting from court or federal mandates which were not reimbursed during 1980-81.

There being no further business, Chairperspn Kirkham adjourned the meeting at 1:54 P.M.


GARY J. LONGHOLM
Executive Secretary

SECTION 5



Association of Bay Area Governments

Hotel Claremont • Berkeley, California 94705 • (415) 841-9730

September 17, 1987

RECEIVED

SEP 19 1981

Mr. Ray Banion
Assistant Executive Secretary
State Board of Control
Suite 300
926 J Street
Sacramento, CA 95814

STATE BOARD OF CONTROL

Dear Ray:

Enclosed is a draft of what we believe the parameters and guidelines should say with respect to our work under provisions of Chapter 1143. This draft was developed and reviewed by representatives of ABAG, SCAG, SanDAG and the Council of Fresno County Governments.

We believe it fairly represents the work required under AB 2853, and hope the Board staff will consider it as the basis for discussion at the meeting next week.

Please call me if you'd like me to bring extra copies,

Sincerely,

Douglas G. Detling
Legislative Affairs Officer

cc: David Fine, SCAG
Debra Greenfield, SanDAG
Jack Reagan, COFCOG

Parameters and Guidelines
Regional Housing Need Determinations
(Chapter 1143, Statutes of 1980)
Government Code Section 65584

DRAFT

Introduction to the Board of Control's Reimbursement Process

standard text

SUMMARY OF MANDATE

In enacting Chapter 1143/80, the Legislature required, through the addition of Government Code Section 65584, that each council of governments (COG) determine the existing and projected need for housing for its region. In addition, for all cities and counties within its region, the COG was required to determine each city and county shares of such need, based upon specified factors:

- o Market demand for housing
- o Employment opportunities
- o Availability of suitable sites and public facilities
- o Commuting patterns
- o Type and tenure of housing
- o Housing needs of farmworkers, and
- o Desire to avoid impaction of localities with relatively high proportions of lower income households.

Each COG must also review, and either accept or reject any city and county revisions to the shares of regional housing need determined by the council of governments.

BOARD OF CONTROL DECISION

The Board on August 19, 1981 found that Chapter 1143/80 constituted a mandate requiring a "new program" by councils of governments. This action was in response to a "claim of first impression" filed by the Association of Bay Area Governments. The Board made its finding under the authority of the Revenue and Taxation Code Section 2253 (b).

ELIGIBLE CLAIMANTS: ALL COUNCILS OF GOVERNMENTS

Councils of governments organized under the Joint Exercise of Powers Act are "local agencies" within the meaning of Section 2211 of the Revenue and Taxation Code. Section 2211 of the Revenue and Taxation Code was amended by the enactment of AB 20 (Chapter 242, Statutes of 1981), which took effect July 21, 1981. Section 8 of AB 20 enacted an

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uncodified statute specifying legislative intent that the change in definitions in Section 2211 was to be interpreted as effective July 1, 1980, and consequently applies to mandates enacted after that date. Consequently, COGs are eligible to file for reimbursement of State-mandated costs related to determining existing and projected regional housing needs, determining local shares of such needs, and accepting or rejecting any local revisions to shares of regional housing needs.

PERIOD OF REIMBURSEMENT: ALL COSTS INCURRED ON OR AFTER JANUARY 1, 1981

Chapter 1143/80 became effective on January 1, 1981. The Board is authorized to reimburse State-mandated costs, resulting from a chaptered bill, that were incurred on or after January 1, 1978. Because ABAG's claim was filed on July 22, 1981, costs incurred by councils of governments to meet the requirements of Chapter 1143 during the period January 1 to June 30, 1981 and for subsequent fiscal years will be reimbursed.

All claims must be submitted after the close of the fiscal year in which costs were incurred, and only one fiscal year shall be included in each claim. The first claim submitted will report costs incurred from January 1, 1981 to June 30, 1981. Claims for reimbursement of 1980-81 fiscal year costs should be submitted within 120 days of the adoption of these parameters and guidelines. This 120-day limitation occurs because of provisions of Chapter 1256 of the Statutes of 1980, which require the Board of Control to present to the Legislature an estimate of the Statewide costs relating to each mandate, the Board recommends for payment. This chapter also requires local agencies to file claims within 120 days of being notified of their right to file.

Only actual, not estimated costs shall be claimed. If total costs are less than \$200, no reimbursement shall be allowed (RTC Section 2233).

REIMBURSABLE COSTS

Pursuant to RTC 2207, reimbursable "costs mandated by the state" means only the increased costs resulting from an "increased level of service or new program." Chapter 1143/80 mandated, for the first time, that councils of governments determine existing and projected regional housing needs. It also mandated, for the first time, that COGs determine localities' shares of such needs. In addition, COGs are required, for the first time, to accept any locality's revision to its share of the region's housing needs, or indicate, based upon available data and accepted planning methodology, why the revision is inconsistent with the regional housing need.

Except as noted below, the following activities may be reimbursed under these parameters and guidelines:

1. Preparation of a draft report containing the determinations of regional housing needs specified in

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subsection (a) of Government Code Section 65584.

2. Preparation of all applicable environmental documents under the California Environmental Quality Act.
3. Conduct of public participation, including advisory committees and public hearings, prior to COG policy body adoption of determinations of existing and projected regional housing needs.
4. Provision for opportunity for the Department of Housing and Community Development to revise the COG determinations of regional housing needs to ensure consistency with the statewide need for housing.
5. Preparation of draft report that distributes regional housing needs to cities and counties within the geographical area of the COG, taking into account available data and the factors cited in subsection (a) of Section 65584.
6. Conduct of public hearings, prior to COG policy body adoption of determinations of local shares of regional housing need.
7. Review of all local government revisions to the COG-determined shares of regional housing needs, if any, and acceptance of such revisions or indications that the revision is inconsistent with regional housing need.
8. Staff costs to periodically monitor local government housing program implementation as it affects the production of units to meet shares of the region's housing needs, since this information will be necessary to produce the revised needs determinations for the local housing element revisions due in 1984.
9. Repeat of the above tasks for the 1984 housing element revisions, and every five years thereafter.
10. Overall management of the program of activities to accomplish the orderly completion of tasks.

Exceptions

1. Per Diem. Per diem payments or other forms of salaries and expenses for COG governing body members are not reimbursable, since Chapter 1143/80 does not require such expenditures.
2. Review of Local Government CEQA Documents. This activity is not required.
3. Assessment of Regional Plan Consistency. This activity is not required.

FILING PROCEDURES

standard text



KENNETH CORY
Controller of the State of California
SACRAMENTO, CALIFORNIA 95805

September 24, 1981

Mr. Don A. Provost
Assistant to the Executive Secretary
State Board of Control
926 J Street, Suite 300
Sacramento, CA 95814

Dear Mr. Provost:

Re: Proposed Parameters and Guidelines for Reimbursement of
Costs Mandated on Councils of Governments through Chapter
1143, Statutes of 1980; General Plan Housing Element
Requirements

The following are our comments concerning the above
proposed Parameters and Guidelines.

1. Include a statement to the effect that records of
actual and necessary staff time to accomplish the mandate be
maintained and the COG claim be based on these records; or
2. If a contract is involved, a statement similar to the
statement submitted by our Division of Audits for counties and
cities under this Chapter be included.

The balance of items appear to be within the expertise of
the Department of Housing and Community Development. Our
office will refrain from commenting on these items.

If you have any questions, please call Glen Beatie of my
staff at (916) 322-2794,

Sincerely,


Wallace C. Chan, Chief

Division of Accounting

GAB: hk
cc: Mr. Jim Ferguson
Division of Audits

RECEIVED

Proposed Parameters and Guidelines
Regional Housing Need Determinations
(Chapter 1143, Statutes of 1980, Government
Code Section 65584-65589)

Introduction to the Board of Control's Reimbursement Process
(Standard Text)

SUMMARY OF MANDATE

By enacting Chapter 1143/80, the Legislature required that each council of government (COG) determine the existing and projected need for housing for its region, and determine each City and County shares of such need, based upon these factors:

- 'Market demand for housing
- Employment opportunities
- Availability of suitable sites and public facilities
- Commuting patterns
- *Type and tenure of housing
- *Housing needs of farmworkers
- *Desire to avoid impaction of localities with relatively high proportions of lower income households

In addition each COG shall accept the revision, or shall indicate, based upon available data and accepted planning methodology, why the revision is inconsistent with the regional housing need.

BOARD OF CONTROL DECISION

The Board of Control found that Chapter 1193, Statutes of 1980, constitutes a mandate requiring a "new program" to be provided by councils of governments. +- The Board acted in response to a "claim of first impression" filed by the Association of Bay Area Governments on July 22, 1981.

ELIGIBLE CLAIMANTS

All Councils of Governments (COGs) are eligible to file for reimbursement of state mandated costs related to regional fair share of housing elements.

PERIOD OF REIMBURSEMENT

The Department of Housing and Community Development will provide this information to Board of Control staff,

REIMBURSABLE COSTS

Revenue and Taxation Code Section 2207 defines "costs mandated by the state" to mean any increased costs resulting from "an increased level of service or new program." Chapter 1143/80 mandates certain new and required program activity for COGs focusing on the regional share requirement of the housing element, and formulating a set of strategies which demand a detail level of specificity.

The following activities and cost may be reimbursed under there parameters and guidelines:

1. Activity: If necessary, adjust data provided by the Department of Housing and Community Development to determine existing and projected housing needs of the region. Coordination of COG determinations of regional housing needs should take place with the Department of Housing and Community Department (HCD).

Reimbursable Costs: Personnel Cost utilized to review and adjust data. provided by HCD.
2. Activity: The Office of Planning and Research will make available to all information regarding the California Environmental Quality Act and AB2831 requirements.
3. Activity: Delete
4. Activity: Delete
5. Activity: Preparation of draft report that distributes regional housing needs to cities and counties within the geographical area of the COG..

Reimbursable Cost: Personnel-Staff directly assigned to the writing of the report.

Clerical Support-Staff assigned to the preparation of the report.

Supplies-Material used for the preparation for the report.

Professional and Consultant Services-Consultant who provides needed specialized assistance to staff.
6. Activity: Conducting of public hearings with the Board of Directors for the purpose of adopting determinations of local shares of regional housing needs. Meetings, briefings, training sessions, and seminars, are not reimbursable programs under this activity.

Memorandum

To : State Board of Control

Date: January 19, 1982

From : Governor's Office
Office of Planning and Research Jay R. Stewart *JRS*
(5-1114)

Subject: Proposed Parameters and Guidelines
Chapter 1143, Statutes of 1980

In adopting parameters and guidelines to reimburse local agencies for preparing housing elements, OPR requests that you specifically exclude from reimbursement work by a local agency to (a) achieve internal consistency between the housing element **and** other elements of its general plan, and (b) perform an environmental review of its housing element. The statutory requirements that a local agency maintain an internally consistent general plan and perform an environmental review of the plan predate SB 90. Moreover, the claimants have not demonstrated that Chapter 1143 requires an increased level of service above the internal consistency and environmental work required by law prior to enactment of Chapter 1143.

Internal Consistency

AB 3.301 of 1971 required that zoning and subdivisions be consistent with a 'local government's general plan. It is necessary that a local agency's general plan be internally consistent, if local zoning and subdivisions are to be consistent with that **plan**. In 1975, the Legislature reaffirmed this necessity by enacting language of intent stating: "The general plan and elements and **parts** thereof comprise an integrated, internally consistent and compatible statement of **policies** of the adopting agency." (Government Code Section 65300.5) OPR's General Plan Guidelines and recent case law confirm that internal consistency is a necessary precondition for a local agency to meet the 1971 zoning and subdivision requirements. (General Plan Guidelines, 1981, pp. 1 and 12; Sierra Club vs. Kern County Board of Supervisors, 126 Cal. App. 3d 698, 1981)

Environmental Review

The adoption of a general plan, **element**, or an amendment constitutes a project under the California **Environmental** Quality Act (Public Resources Code 21000 et seq.), the State EIR Guidelines, and case law (City of Garden Grove v. City of Santa Ana, 100 Cal. App. 3d 521, 1980). This means that a local agency is required to assess the environmental effects of any new or amended element of its general plan. This requirement was enacted in 1970, and therefore predates SB 90.

Increased Level of Service

Your staff indicates that if a new mandate requires an increased level of service in performing a pre-SB 90 mandate, such work might be considered reimbursable. OPR accepts that as a reasonable principle, but we question whether Chapter 1143 requires an increased level of service to achieve internal consistency and perform environmental review with a new housing element. No claimant has identified what increased level of service is necessary to achieve internal consistency or complete an environmental review -- specifically, what tasks, if any, must be performed that were not previously required prior to the enactment of Chapter 1143.

Claiming Reimbursement

Even if the claimants could demonstrate an increased level of service, they provide no means to distinguish between normal consistency and environmental review work and similar work which may result from Chapter 1143. Local governments routinely amend their general plans at their own initiative, usually when development or zone changes are proposed or when the plan has become outdated. Therefore, local agencies are required to routinely review and adjust their plans for internal consistency and to analyze the environmental effects of plan amendments to satisfy pre-SB 90 requirements. Unless the parameters and guidelines provide specific directions on eligible consistency and environmental review work, the State will be liable to reimburse local agencies for additional tasks not mandated by Chapter 1143.

OPR respectfully requests that you consider these points before adopting parameters and guidelines for Chapter 1143.

JRS:dls

Memorandum

: Don Provost
State Board of Control

Date: October 7, 1981

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OCT 7 1981

From : **Governor's Office**
Office of Planning and Research - Jay Stewart

STATE BOARD OF CONTROL

Subject: Environmental Review of Regional Housing Allocations

At our September 23, 1981 meeting we agreed on proposed parameters and guidelines to reimburse councils of governments (COGs) for preparing the regional housing needs allocation required by AB 2853. One question we did not resolve was: Is the distribution of regional housing needs among local agencies subject to review under the California Environmental Quality Act (CEQA)? I agreed to determine the position of OPR and the Resources Agency on this question for your Board's next meeting.

I consulted OPR's General Counsel (Barry Steiner) and the Agency's Assistant Secretary specializing in Environmental Affairs (Norm Hill) on this question. Both agree that a COG is not required to prepare an environmental impact report (EIR) on its distribution of regional housing needs required by Government Code Section 65584(c) as this work most closely resembles a planning and feasibility study. The CEQA Guidelines specifically exempts this type of planning:

A project involving only feasibility or planning studies for possible future actions which the agency, board or commission has not approved, adopted, or funded, does not require the preparation of an environmental impact report but does require consideration of environmental factors as required by Section 21102. (CEQA Guidelines? Section 15072)

There are three main reasons why the distribution of required housing needs would be exempt from CEQA review:

1. The distribution of regional housing needs among localities involves calculating housing needs data, based on existing population data and physical and economic conditions within the region. The distribution does not involve choice of policies or program alternatives, but instead forms the data base for the policies and programs subsequently developed in the local housing element. CEQA applies only to discretionary actions, not to merely assembling data.
2. The distribution of housing needs is not binding on cities and counties when they prepare their local housing element and programs. AB 2853 specifically provides that a "local government may revise the definition of its share of the regional housing need," and provides no penalty or sanction for the revision (Government Code Section 65584(c)). Once adopted, a local housing element becomes a part of a community's legally enforceable general plan governing land use and development decisions

Don Provost
October 7, 1981
Page 2

and public works projects. By contrast, a COG's distribution of regional housing need carries no such authority or policy commitment.

3. Environmental review of housing plans should not be duplicated. CEQA review is properly performed on the draft housing element, which is the first point that local housing policies and implementation programs are developed, Policy review of the housing needs data only would be premature; instead CEQA review should be performed on the full housing plan, which contains data, analysis, and implementation program.

cc:Barry Steiner
Norm Hill
Olena Berg
Carolyn Burton
Doug Dettling, ABAG
David Fine, SCAG

A handwritten signature in black ink, appearing to read "Jay Stewart". The signature is written in a cursive, flowing style with a large initial "J".

SECTION 6

STATE BOARD OF CONTROL
October 21, 1981
Sacramento, California

The State Board of Control met in regular session in Room 587, State Office Building No. 1, 915 Capitol Mall, Sacramento, California. Present were Chairman David E. Janssen, Director of General Services; Edwin W. Beach, Member; and Theresa Cook, Member. Absent were Peter Pelkofer, Deputy State Controller, who acts for and in the absence of Kenneth Cory, State Controller; and Zev Yaroslavsky, Member.

There being a quorum present, the Chairman called the meeting to order at 9:10 a.m.

Member Cook moved and Member Beach seconded the motion to approve the minutes of the August 19, 1981 meeting.

Member Beach moved and Member Cook seconded the motion to approve item 1 which was a claim for reimbursement of costs mandated by Chapter 89, Statutes of 1974 (State Teachers' Retirement System). Motion carried by unanimous vote.

Chapter 89, 'Statutes of 1974 (1977-78 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Alameda County Schools #SB 90-2340-A	\$ 37,211.00

Member Beach moved and Member Cook seconded the motion to approve item 2, which was a claim for reimbursement of costs mandated by Chapter 842, Statutes of 1978 (Tuberculosis Exams for School Bus Drivers). Motion carried by unanimous vot.

Chapter 842, Statutes of 1974 (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of San Bernardino #SB 90-3715	\$ 643.00

Member Cook moved and Member Beach seconded the motion to approve items 3 through 12, which were claims for reimbursement of costs mandated by Chapter 876, Statutes of 1976 (Sentencing Transcripts).

Chapter 876, Statutes of 1976 (1977-78 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of Santa Cruz #SB 90-3734	\$ 499.00

Chapter 876, Statutes of 1976 (1978-79 F.Y.)

<u>Claimant-</u>	<u>Amount</u>
Santa Clara County Superior Court #SB 90-3734	\$ 6,731.00

Chapter 876, Statutes of 1976 (1978-79 F.Y.) cont.

<u>Claimant</u>	<u>Amount</u>
County of Santa Cruz #SB 90-3562	\$ 1,317.00
Shasta County JISB 90-3599	538.00
County of Tehama JISB 90-3532	271.00

Chapter 876, Statutes of 1976 (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of San Diego #SB 90-3753	\$ 8,402.00
Santa Clara County Superior Court #SB 90-3735	8,600.00
County of Santa Cruz #SB 90-3700	1,302.00
Shasta County #SB 90-3610	485.00
County of Tehama JISB 90-3533	393.00

Items 13 and 14 were claims filed by the County of San Mateo for reimbursement of costs mandated by Chapter 876, Statutes of 1976 (Sentencing Transcripts). The claimants submitted a rebuttal requesting additional amounts of \$404 for the 1978-79 fiscal year and \$229 for the 1979-80 fiscal year alleging that their out-of-pocket costs exceeded the reimbursement rate of \$14.70 per sentencing transcript established in the Parameters and Guidelines.

Member Cook moved to amend the Parameters and Guidelines to allow for claiming of actual costs (not including overhead costs) rather than unit cost rates. Motion died for lack of a second. Member Beach then moved and Member Cook seconded the motion to approve the claims in the amount recommended by the Controller. Motion carried by unanimous vote,

Chapter 876, Statutes of 1976, (1978-79 & 1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of San Mateo #SB 90-3748	\$ 3,440.00
County of San Mateo #SB 90-3749	2,440.00

Member Beach moved and Member Cook seconded the motion to approve items 15 through 17, which were claims for reimbursement of costs mandated by Chapter 961, Statutes of 1975 (Collective Bargaining). Motion carried unanimously.

Chapter 961, Statutes of 1975 (1977-78 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Gonzales Union High School District' #SB 90-3876	\$ 319.00
Milpitas Unified School District #SB 90-2729-A	32,030.00
Tulare City School District #SB 90-3855	12,855.00

The Board then considered items 18 through 20, which were claims for reimbursement of costs mandated by Chapter 961, Statutes of 1975 (Collective Bargaining). These claims were filed after July 16, 1980 and before October 20, 1980. Because SB1261 contained 6 such claims which were deleted by the Legislature on the basis of the statute of limitations, staff requested direction from the Board considering administration of such claims. Chairman Janssen advised that we continue to accept them. Therefore, Member Beach moved and Member Cook seconded the motion to approve items 18 through 20. Motion carried unanimously.

Chapter 961, Statutes of 1975 (1977-78 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Mark West Union School District #SB 90-1657-A	\$ 3,567.00
Poway Unified School District #SB 90-2303-A	5,799.00
Santa Monica Unified School District #SB 90-90-2498-A	38,170.00

Member Cook moved and Member Beach seconded the motion to approve items 21 through 29, which were claims for reimbursement of costs mandated by Chapter 978, Statutes of 1976, and Chapter 848, Statutes of 1978 (Bilingual Education Program). Motion carried unanimously.

Chapter 978, Statutes of 1976 & Chapter 848, Statutes of 1978 (1977-78 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Montebello Unified School District #SB 90-3742	\$ 2,900.00

Chapter 978, Statutes of 1976 & Chapter 848, Statutes of 1978 (1978-79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Montebello Unified School District #SB 90-3761	\$ 122,156.00
<u>Chapter 978, Statutes of 1976 & Chapter 848, Statutes of 1978</u>	

<u>Claimant</u>	<u>Amount</u>
Atwater School District #SB 90-3604	\$ 1,142.00
Burbank Unified School District #SB 90-3403	1,776.00
Chaffey Joint Union High School District #SB 90-3571	27,362.00
Gilroy Unified School District #SB 90-3770	3,265.00
Lancaster School District #SB 90-3629	599.00
Montebello Unified School District #SB 90-3819	101,017.00
Oak Grove Elementary School District #SB 90-3631	18,867.00

Member Cook moved and Member Beach seconded the motion to approve item 30, which was a claim filed by the County of San Bernardino (#SB 90-3799, 1977-78 F.Y., \$3,914.00) for reimbursement of costs mandated by Chapter 984, Statutes of 1977 (Developmental Disabilities). Motion carried unanimously,

Member Cook moved and Member Beach seconded the motion to approve items 31 through 47 which were claims for reimbursement of costs mandated by Chapter 1139, Statutes of 1976 (Determinate Sentencing). Motion carried unanimously.

Chapter 1139, Statutes of 1976 (1977-78 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of Alameda #SB 90-3564-A	\$ 69,249.00
Kern County #SB 90-2863	7,895.00
County of Madera #SB 90-2140	10,107.00
County of Orange #SB 90-3310	56,885.00
County of San Bernardino #SB 90-2590	20,754.00

Chapter 1139, Statutes of 1976 (1977-78 F.Y.) cont.

<u>Claimant</u>	<u>Amount</u>
County of San Diego JISB 90-3087-A	\$ 107,969.00

Chapter 1139, Statutes of 1976 (1978-79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of Alameda #SB 90-3562-A	\$ 177,662.00
County of Madera #SB 90-2141	10,260.00
County of Orange JISB 90-3311	173,041.00
County of San Bernardino #SB 90-2591	43,976.00
County of San Diego JISB 90-3058-A	181,399.00

Chapter 1139, Statutes of 1976 (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of Alameda #SB 90-3865	\$ 205,588.00
County of Orange JISB 90-3601	164,621.00
County of San Bernardino JISB 90-3750	49,943.00
County of San Diego #SB 90-3573	191,824.00
County of Solano #SB 90-3835	8,636.00
County of Sonoma JISB 90-3565-A	151,517.00

*Member Beach moved and Member Cook seconded the motion to approve item 48, which was a claim filed by Guadalupe Union School District (#SB 90-3899, 1978-79 F.Y.; \$1,402.00) for reimbursement of costs mandated by Chapter 1176, Statutes of 1977 (Immunization Record Keeping). Motion carried unanimously.

Member Cook moved and Member Beach seconded the motion to approve items 49 through 54, which were claims for reimbursement of costs mandated by Chapter 2215, Statutes of 1974 (School Attendance Review

Boards). Motion carried by unanimous vote.

Chapter 1215, Statutes of 1974 (1977-78 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Oak Grove Elementary School District #SB 90-3889	\$ 1,811.00
Santa Monica-Malibu Unified School District #SB 90-3880	1,202.00

Chapter 1215, Statutes of 1974 (1978-79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Oak Grove Elementary School District #SB 90-3888	\$ 3,960.00
Porterville Union High School #SB 90-3639	6,622.00
Santa Monica-Malibu Unified School District #SB 90-3881	2,086.00
Tuolumne County Superintendent of Schools #SB 90-2957-A	16,373.00

Member Beach moved and Member Cook seconded the motion to approve items 55 and 56, which were claims for reimbursement of costs mandated by Chapter 1242, Statutes of 1977 and Chapter 43, Statutes of 1978 (Senior Citizen Property Tax Postponement). Motion carried by unanimous vote.

Chapter 1242, Statutes of 1977 & Chapter 43, Statutes of 1978 (1978-79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of Santa Cruz #SB 90-3897	\$ 1,476.00

Chapter 1242, Statutes of 1977 & Chapter 43, Statutes of 1978 (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of Shasta #SB 90-3686	336.00

The Board next considered item 57, which was a claim filed by the County of Sacramento (#SB 90-3809, 1979-80 F.Y.); \$2,130.00) for reimbursement of costs mandated by Chapter 1242, Statutes of 1977 and Chapter 43, Statutes of 1978 (Senior Citizen Property Tax Postponement). At that time, Glen Beatie, representing the State Controller's Office, informed the Board that his office now concurred with the amount claimed by the County of Sacramento rather than the lesser amount previously recommended. Member Beach moved & Member Cook seconded the motion to approve the claim in the newly recommended

amount. Motion carried unanimously.

Member Cook moved and Member Beach seconded the motion to approve items 58 through 61, which were claims for reimbursement of costs mandated by Chapter 1319, Statutes of 1978 (Dangerously Mentally Retarded Person Commitments). The motion carried by unanimous vote'.

Chapter 1319, Statutes of 1978 (1978-79 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of San Bernardino #SB 90-3818	\$ 4,268.00

Chapter 1319, Statutes of 1978 (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of San Bernardino #SB 90-3827	\$ 2,794.00
County of San Mateo #SB 90-3806	742.00

Chapter 1319, Statutes of 1978, 1980-81 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of San Bernardino #SB 90-3828	\$ 560.00

Member Cook moved and Chairman Janssen seconded the motion to item 62, which was a claim filed by the County of San Mateo (#SB 90-3796, 1978-79 F.Y.; \$30,684.00) for reimbursement of costs mandated by Title 8, Sec. 3041(c), CAC (Elevator Fire Safety). The vote on the motion was: Member Beach, no; Member Cook, aye; and Chairman Janssen, aye. Motion failed to receive three votes. Therefore, no action could be taken on the claim and it was continued to the next hearing at the request of the claimant.

At the request of the claimant, the Board continued items 63 through 66, which were claims filed by the County of San Joaquin for reimbursement of mandated costs under Title 14, Div. 7, Ch. 2, CAC (Solid Waste Management Plans).

Member Beach moved and Member Cook seconded a motion to approve items 67 through 79, which were claims for reimbursement of costs mandated by Title 15, Art. 14, Sec. 1282, CAC (Self-contained Breathing Apparatus). Motion carried unanimously.

Title 15, Art. 14, Sec. 1282, CAC (1979-80 F.Y.)

<u>Claimant</u>	<u>Amount</u>
County of Alameda #SB 90-3854	\$ 1,824.00
County of San Diego #SB 90-3765	3,923.00

Title 15, Art. 14, Sec. 1282, CAC, (1979-80 F.Y.) cont.

<u>Claimant</u>	<u>Amount</u>
Sutter County Sheriff's Department IISB 90-3698	\$ 1,216.00
Tehama County IISB 90-3868	1,216.00
Torrence Police Department IISB 90-3915	1,216.00

Title 15, Art. 14, Sec. 1282, CAC, (1980-81 F.Y.)

<u>Claimant</u>	<u>Amount</u>
Del Norte County Sheriff's Department #SB 90-3893	\$ 1,216.00
Lake County Probation Department IISB 90-3909	1,233.00
Lake County Sheriff's Department IISB 90-3918	1,216.00
Paso Robles Police Department #SB 90-3873	571.00
County of San Bernardino IISB 90-3919	16,130.00
County of San Mateo #SB 90-3894	1,713.00
County of Santa Barbara #SB 90-3911	4,577.00
County of Yuba #SB 90-3912	1,824.00

Member Cook moved and Member Beach seconded a motion to approve items 80 through 83. Item 84 was continued to December at the request of the claimant. These were all claims filed for reimbursement of costs mandated by Chapter 1071, Statutes of 1976 (Juvenile Justice). Motion carried by unanimous vote.

Chapter 1071, Statutes of 1976 .

County of Merced (1976-77 & 1977-78 F.Y.) #SB 90-575-B	\$ 101,533.00
County of Orange (1976-77 & 1977-78 F.Y.) IISB 90-1487-A	831,266.00
County of Stanislaus (1976-77 & 1977-78 F.Y.) #SB 90-711-D	78,169.00
County of Marin (1977-78 F.Y.) #SB 90-1743	72,938.00

Items 85 through 87 were test claims alleging that a reimbursable mandate exists in Chapter 463, Statutes of 1978 (IHSS Payrolling Costs). These claims were continued at the request of the claimant.

At the request of Member Beach, the Board next discussed recent difficulty in being able to make a final determination as to whether test claims imposed reimbursable state mandated costs. The difficulty arises from the procedure set forth in Revenue and Taxation Code Section 2252, which provides that a "claim which fails to obtain the approval of a majority of Board members but which is not rejected by a majority of the board members, may be resubmitted at a later date by the claimant". As a consequence of this statutory provision, it is presently necessary for all five board members to be in attendance at a hearing in order to decide any claims that are either supported or opposed by two Board members.

In order to overcome this impasse, the Board members discussed an alternative to the present voting procedure; namely, in those cases where a vote has been taken on a motion determining whether a mandate exists in a test claim and three votes have not been cast for or against the motion, members who were not present when the original vote was taken may record their votes at a subsequent hearing. However, the members present agreed that this "on-call voting" procedure should only be exercised when 1) the claimant agrees; 2) the procedure is not used as a substitute for the presentation, in a public hearing, of written documents and oral statements; and 3) the vote concerning the test claim is duly noticed as being "on-call".

Item 88 was a test claim filed by the County of Santa Cruz (#SB 90-3667, 1980-81 F.Y.) alleging that a reimbursable mandate exists in Chapter 1039, Statutes of 1979 (School Crossing Guards). This test claim was continued at the request of the claimant to the November meeting.

Item 89 and 90 were test claims alleging that a reimbursable mandate exists in Chapter 1042, Statutes of 1980 (Worker's Compensation). These test claims were continued to the November meeting at the request of the claimant.

Item 91 was a test claim filed by Fresno County (#SB 90-3948, 1980-81 F.Y.) alleging that a reimbursable mandate exists in Chapter 1060, Statutes of 1980 (Detention of Stray Cats). Although it was recommended by Staff that the claim be continued because of a late recommendation from the Department of Finance, the claimant wished the Board to proceed with the hearing of this claim. Fresno County alleged that Ch. 1060/80 mandates an increased level of service upon local entities by prohibiting the killing of impounded stray cats for 72 hours from the time of their capture. Prior to this Chapter, state law did not provide any time requirement for the retention of cats impounded by a public pound or other animal shelters. After considerable discussion, Member Cook moved and Chairman Janssen seconded the motion to determine that a reimbursable mandate exists in Ch. 1060/80. The vote on the motion originally was: Member Beach, no; Member Cook, aye; Chairman Janssen, aye. However, Member Beach later changed his vote to "aye" with the statement that he was changing his vote in order to avoid having to reschedule the claim when the two absent Board members were present.

The Board next considered item 91(a), a test claim filed by San Bernardino County (#SB 90-3891, 1980-81 F.Y.) alleging that a reimbursable mandate exists in Chapter 1281, Statutes of 1980 (Recordation of Liens Affecting Real Property). The claimant alleged that Section 27297.5 of Ch. 1281/80 (AB481) mandated a "new program" upon counties which must notify individuals when involuntary liens are imposed on their real property by a governmental entity.

After considerable discussion, Member Beach moved and Member Cook seconded the motion to determine that a reimbursable mandate existed in Ch. 1281/80. The motion carried by unanimous vote.

Item 92 was a test claim filed by the City and County of San Francisco (#SB 90-3712, 1980-81 F.Y.) alleging that a reimbursable mandate exists in Chapter 1350, Statutes of 1980 (Original Ribbon Copy Fee). This claim was continued at the request of the claimant to the December meeting.

Item 93 was a test claim filed by the Consolidated Sewer Maintenance District (#SB 90-3745, 1980-81 F.Y.) alleging that a reimbursable mandate exists in Title 8, Sec. 5157, 5158(e), 5159(a)(2) CAC (Standards for Employees in Confined Spaces). This claim was continued at the request of the claimant.

Item 94 was a test claim filed by Santa Clara County (#SB 90-3866, 1980-81 F.Y.) alleging that a reimbursable mandate exists in Title 15, CAC, Sec. 1272 (Standards for Mattresses). This claim was continued at the request of the claimant.

Item 95 was a test claim filed by Alameda County (#SB 90-3758, 1979-80 F.Y.) alleging that a reimbursable mandate exists in Title 15, CAC, Sec. 4323(c) (Mattress Standards for Youths). This claim was continued at the request of the claimant.

Item 96 was a test claim filed by Santa Cruz County (#SB 90-3174, 1978-79 F.Y.) alleging that a reimbursable mandate exists in, the California Rules of the Court 33(a)(2). Considerable discussion centered on whether an order promulgated by the Judicial Council is within the meaning of Revenue and Taxation Code Section 2209. Member Beach moved and Member Janssen seconded the motion to deny the claim. The vote on the motion was: Member Beach, aye; Member Cook, no; Chairman Janssen, aye. Motion failed. Due to the lack of three votes on the motion, the claim will be heard at a later meeting. Chairman Janssen requested that a representative of the Judicial Council be present at that time.

The Board next considered Exhibit "B", Proposed Parameters and Guidelines for Chapter 1143, Statutes of 1980 (Regional Housing Needs Determinations, Councils of Government). Member Beach moved and Member Cook seconded the motion to adopt, as amended, the Proposed Parameters and Guidelines. Motion carried by unanimous vote.

Exhibit "C", the Proposed Parameters and Guidelines for Chapter 1143, Statutes of 1980, (Locality's Fair Share, Regional Housing Needs) was continued at the request of the claimants, departmental representative, and Board staff.

Exhibit "D", the Proposed Parameters and Guidelines for Title 14,

Chapter 2, Article 7 (Solid Waste Management Plans) were continued at the request of the claimant.

The Board next considered Exhibit "E", the Proposed Parameters and Guidelines for PUC Decision 91846, (Sequential Occupational Release System, Bay Area Rapid Transit-BART). There was considerable discussion concerning the possibility of the State of California acquiring surplus property from BART which had been mandated by the PUC Decision. Based, in part, on input from Alvin Teragwachi of BART staff, the Board amended the proposed parameters and guidelines to include a provision which would establish a procedure for BART to dispose of this surplus property. Member Cook moved and Member Beach seconded the motion to adopt, as amended, Exhibit "E". Motion carried unanimously.


The Board directed staff not to use language that would suggest that the State acquire reimbursed equipment, devices and other items from local entities.

The Board next considered Exhibit "F", the 1982 Meeting Schedule. Gary Longholm, Executive Secretary of the Board of Control, made a presentation to the Board concerning the remaining balance of the 1981 schedule of Board meetings and the proposed 1982 schedule. For the remaining schedule of 1981, Mr. Longholm recommended that the December SB90 meeting scheduled in San Francisco be rescheduled for Sacramento. Chairman Janssen agreed to this change of the meeting. The proposed 1982 schedule was presented to the Board with several changes. Member Beach suggested that the Board take the proposed schedule under submission so that the other Board members could review and provide input to this proposed and amended schedule at the next meeting.

The Board next considered Exhibit "G", which was a discussion item concerning the impact of SB1261 (Chapter 1000, Statutes of 1981). After considerable discussion, the Board directed staff to implement the following policies:

1. No claims submitted after September 30, 1981, for reimbursement of costs incurred under Chapter 1146, Statutes of 1978 (Destruction of Animals); Chapter 1275, Statutes of 1975 (Emigrant Domain); or Title 8, Art. 10.1, Sec. 3401-9, CAC (Firefighters Safety Clothing and Equipment) shall be accepted.
2. Claims under mandates for which funding was deleted, but which were not specifically proscribed by the Legislature, shall continue to be accepted.
3. No more reimbursement claims shall be put before the Board. Instead, such claims shall be included in an "estimate of statewide costs" to be presented in the local government claims bill.
4. The Board shall amend, at its next hearing, parameters and guidelines adopted prior to January 1, 1981, in order to establish the deadline for submitting claims specified in SB1261.

There being no further business, Chairman Janssen adjourned the meeting at 12:20 p.m.


GARY L. LONGHOLM
Executive Secretary

STATE BOARD OF CONTROL
December 16, 1981
Sacramento, California

The State Board of Control met in regular session in Room 587, State Office Building No. 1, 915 Capitol Mall, Sacramento, California. Present were Chairperson David E. Janssen, Director of General Services; Edwin W. Beach, Member; Theresa Cook, Member; Peter Pelkofer, Deputy State Controller, who acts for and in the absence of Kenneth Cory, State Controller; and present at 10:25 a.m. Zev Yaroslavsky, Member.

There being a quorum present, the Chairperson called the meeting to order at 9:25 a.m.

Member Janssen moved and Member Pelkofer seconded the motion to approve the minutes of the November 18, 1981 meeting.

Member Pelkofer moved and Member Beach seconded the motion to approve items 15 and 16, an amendment to the brief written statement which identified the Board's basis for determination that no reimbursable mandate exists in Chapter 1042, Statutes of 1980 (Worker's Compensation). The vote on the motion was: Member Beach, aye; Member Cook, no; Member Pelkofer, aye; Chairperson Janssen, aye. Motion carried.

Member Pelkofer moved and Member Beach seconded the motion to approve item 17, the brief written statement which identified the Board's basis for determination that no reimbursable mandate exists in Title 24, CAC, Section 103, and Part 6; Education Code, Title 2, Part 23, Chapter 1 and 2, Section 39100-39124 (Increased Building Requirements). The vote on the motion was: Member Beach, aye; Member Cook, no; Member Pelkofer aye; Chairperson Janssen, aye. Motion carried.

Member Pelkofer moved and Member Cook seconded the motion to approve items 18, 19 and 20, which were claims for reimbursement of costs mandated by Chapter 1071, Statutes of 1976 (Juvenile Justice). Motion carried by unanimous vote.

<u>CLAIMANT</u>	<u>AMOUNT APPROVED</u>
County of Kern (1976-77 & 1977-78 F.Y.) #SB 90-580-B	\$ 345,239.00
County of Shasta (1976-77 & 1977-78 F.Y.) #SB 90-3775	31,239.00
County of Solano #SB 90-568-C	46,826.00

Member Pelkofer moved and Member Cook seconded the motion to adopt proposed parameters and guidelines for Chapter 946, Statutes of 1973; and Title 19, Sections 17.33 and 18.07 CAC; (Fire Standards for High Rise Structures). Motion carried by unanimous vote.

A correction was made in the November 18, 1981 meeting minutes to change the figure \$3,450,239, to \$345,239 in Item 18, Chapter 1071, Statutes of 1976 (Juvenile Justice) filed by the County of Kern.

The Board next heard Exhibit D, proposed parameters and guidelines for Chapter 1143, Statutes of 1980 (Regional Housing Needs). Discussion ensued regarding the adoption of an amendment to the parameters and guidelines resulting from this act. Staff representing the Council of Fresno County Governments, Sacramento Area Council of Governments, State Housing and Community Development, and State Board of Control adjourned to develop language for an amendment that would be acceptable to the State and California councils of governments.

Member Pelkofer moved and Member Beach seconded the motion to add alternative #2, "Revenue resulting from the sales of stray cats shall be subtracted from the amount which would otherwise be reimbursed by the State," to proposed parameters and guidelines for reimbursement of a mandate found in Chapter 1060, Statutes of 1980 (Detention of Stray Cats). Motion carried by unanimous vote.

For record: State Department of Finance will not support expenses for capital outlay.

Member Zev Yaroslavsky entered the hearing room at 10:35 a.m.

Member Pelkofer moved and Member Beach seconded the motion that the reimbursement rate for K-12 students remain at \$2.20 and only procedural changes be approved. Motion was withdrawn.

Member Beach moved and Member Yaroslavsky seconded the motion to increase the reimbursement rate for H-12 students to \$2.39 (1980-81 F.Y.) because school districts have already been notified of \$2.39 rate. This change will be reflected in the proposed parameters and guidelines for reimbursement of a mandate found in Chapter 1176, Statutes of 1977 (Immunization Records). Motion carried by unanimous vote.

(Further discussion on Exhibit "D"). Member Pelkofer moved and Member Cook seconded the motion to amend the parameters and guidelines for Chapter 1143, Statutes of 1980, (Regional Housing Need Determinations, Councils of Governments). The motion carried by a unanimous vote.

The Board next heard a claim submitted by: Localities of Fair Share, City of Elmonte, Los Angeles County, and City and County of San Francisco. (Exhibit "E"). The claim was regarding proposed parameters and guidelines for Chapter 1143, Statutes of 1980, (Regional Housing Needs). The claimant's representative, William Ross of of the law firm Merserve, Mumper, and Hughes, addressed the Board with complaints regarding the communications of information between the State and his office.

Member Pelkofer moved to continue discussion of Exhibit "E" because of incomplete information. Member Beach seconded the motion. Motion carried by unanimous vote. The Board continued the hearing date to January 20, 1982.

Chairperson Janssen instructed Board of Control staff to provide Board members and William Ross with all documentation and correspondence regarding this claim.

Member Yaroslavsky moved and Member Cook seconded the motion to approve items 11 and 12 which were claims for reimbursement of costs mandated by PERS, CHS Bulletin No. 1-5 effective July 1, 1980 (Computer Modifications). Motion failed by a three to two vote. The vote on the motion was: Member Beach, no; Member Cook, aye; Member Pelkofer, no; Member Yaroslavsky, aye; Chairperson Janssen, no. Motion failed.

Member Beach moved and Member Pelkofer seconded the motion to find no mandate in Chapter 71, Statutes of 1979; and Chapter 874, Statutes of 1979 (Fix-it tickets). The vote on the motion was: Member Beach, aye; Member Cook, no; Member Pelkofer, aye; Member Yaroslavsky, aye; Chairperson Janssen, aye. Motion carried.

The Board held that prior to the preceding legislation, the California Highway Patrol issued fix-it tickets at their own option. Thus, this activity was always a responsibility of the local court system and this legislation simply streamlined a procedure.

Member Yaroslavsky moved and Member Cook seconded the motion to approve item 2 which was a claim for reimbursement of costs mandated by Chapter 282, Statutes of 1979; Chapter 1035, Statutes of 1979; and Chapter 1039, Statutes of 1979. Motion carried by unanimous vote, with Member Beach abstaining.

Chairperson Janssen suggested that the parameters and guidelines be drafted tight enough to refer only to Santa Cruz County, and cautioned Santa Cruz County not to drastically increase its costs in this area.

CLAIMANT

Santa Cruz County
#SB 90-3667

AMOUNT APPROVED

\$ 5,467.24

Member Yaroslavsky moved and Member Cook seconded the motion to approve items 3 through 5, which were claims for reimbursement of costs mandated by Chapter 463, Statutes of 1976 (In-Home Supportive Services Payrolling System). The vote on the motion was: Member Beach, no; Member Cook, aye; Member Pelkofer, no; Member Yaroslavsky, aye; and Chairperson Janssen, no. Motion failed.

Member Yaroslavsky moved and Member Pelkofer seconded the motion to find no mandate exists in Chapter 1350, Statutes of 1980. (Original Ribbon Copy Fee). Motion carried by unanimous vote.

Member Pelkofer moved and Member Beach seconded the motion to find no mandate in Title 3, Sub Chapter 4, Article 2, Section 359.5 (Medfly Eradication Program), Motion carried by unanimous vote.

Among the issues discussed by the Board regarding the above claim were: (1) should the school district receive special privileges (funds) not allowed to private land owners, and (2) didn't it (school district) make the decision to hold this land and thus incur personal liability for the district.

The Board next heard Item 13, (Transcript of Probation Proceedings) filed by the County of Santa Cruz based on an executive order resulting from California Rules of the Court, Rule 33 (a) (2) 1978-79 fiscal year. Member Pelkofer moved and Member Beach seconded the motion to find that orders issued pursuant to the Judicial Council's constitutional authority to promulgate rules and regulations by the court are not considered executive orders pursuant to Revenue and Taxation Code 2209. The vote on the motion was: Member Beach, aye; Member Cook, no; Member Pelkofer, aye; Member Yaroslavsky, no; Chairperson Janssen, aye. Motion carried.

Member Pelkofer moved and Member Beach seconded the motion to find no mandate in Item 13 as a result of the Board's determination of the previous motion. The vote on the motion was: Member Beach, aye; Member Cook, no; Member Pelkofer, aye; Member Yaroslavsky, no; Chairperson Janssen, aye. Motion carried.

Next discussed, Item 14 was originally submitted to the Board as a mandate resulting from an executive order, California Rules of the Court Rule 985, 1980-81 F.Y. (Forma Pauperis). At the hearing, the Board decided to accept the claim based on legislation pursuant to Revenue and Taxation Code Section 2253(c).

The Board voiced that a need exists to address the service level increase.

The Board agreed to continue the hearing on this claim over to March 25, 1982, in Sacramento.

The Board next discussed Item 8 (Standards for Employee Exposure in Confined Spaces) Title 8, CAC, Section 5157. Claimant representative, Melissa Taubman, claimed that CAL/OSHA representatives required the Los Angeles Consolidated Sewer Maintenance District to purchase gas level monitors and self-contained breathing apparatuses. Ms. Taubman was unable to produce documentation at the hearing which she alleged confirmed her statement.

Member Beach moved and Member Pelkofer seconded the motion to find no mandate exists in Item 80 Motion carried by unanimous vote.

The Board next heard the claim of Santa Clara County. Member Beach moved and Member Pelkofer seconded the motion to find no mandate in Title 15, CAC, Article 13, Section 1272, 1980-81 F.P. (Standards for Mattresses). The vote on the motion was: Member Beach, aye; Member Cook, no; Member Pelkofer, aye; Member Yaroslavsky, no; Chairperson Janssen, aye. Motion carried.

Regarding Alameda County's claim that was filed under the same executive order as Item 9, the Board decided that the State Board of Corrections' regulation in question, did not change. Increased costs, instead, resulted from the Home Furnishing standards which required fire retardant mattresses to be issued to inmates. In order to be in compliance with this standard and pass State Fire Marshall inspection, fire retardant mattresses must be purchased by the county. Also, the claimant asserted that these replacement mattresses only last one-fifth the time as the non-fire retardant mattresses. Member Beach moved and Member Pelkofer seconded the motion to continue the hearing on Title 15, Section 4323, 1979-80 F.Y. (Mattress Standards for Youth). Motion carried by unanimous vote.

The hearing was continued to explore:

- (1) whether or not bed replacement resulting from this executive order is a statewide problem,
- (2) what transpired between Mr. Negrette and the probation department,
- (3) would Section 4326 (WIC) constitute "grandfathering" people in.

BOC hearing will be reset once the information is obtained.

Member Pelkofer moved and Member Yaroslavsky seconded the motion to adopt the State Controller's recommendations that the claimant's base year costs resulting from Chapter 1071, Statutes of 1976 (Juvenile Justice). The vote on the motion was: Member Beach, aye; Member Cook, no; Member Pelkofer, aye; Member Yaroslavsky, aye; Chairperson Janssen, aye. Motion carried.

The Board's 1982 hearing schedule was discussed. Chairperson Janssen stated that there will be no problem with having a meeting on the call of the Chair.

it was decided to adopt the new hearing schedule and add hearing dates later if necessary. The 1982 Board of Control-Local Mandate hearing schedule follows:

DATE	LOCATION
January 20, 1982	Los Angeles
March 25, 1982	Sacramento
May 27, 1982	Los Angeles
August 26, 1982	Sacramento
September 30, 1982	Sacramento
November 22, 1982.	Sacramento

The Board further discussed Item 21. Member Pelkofer moved and Member Beach seconded the motion to adopt the State Controller's recommendation in the amount of \$492,565 resulting from Chapter 1071, Statutes of 1976 (Juvenile Justice). The vote on the motion was: Member Beach, aye; Member Cook, no; Member Pelkofer, aye; Chairperson Janssen, aye. Motion carried.

It was the State Controller's field auditors who concluded that the claimant be reimbursed for \$ 506,965 (\$1,070,354 less than the amount claimed).

Meeting adjourned at 6:30 p.m.


GARY L. LONGHOLM
Executive Secretary

SECTION 7

Adopted: 10-21-81
Amended: 12-16-81
Amended: 10-25-84

J & Bolder #0748S

Parameters and Guidelines
Regional Housing Need Determinations,
Councils of Governments
(Chapter 1143, Statutes of 1980,
Government Code Section 65584-65589)

SUMMARY OF MANDATE

By enacting Chapter 1143, Statutes of 1980, the Legislature required that each council of government (COG) determine the existing and projected need for housing for its region, and determine each City and County share of such need, based upon these factors:

- Market demand for housing
- Employment opportunities
- Availability of suitable sites and public facilities
- Commuting patterns
- Type and tenure of housing
- Housing needs of farmworkers
- Desire to avoid impaction of localities with relatively high proportions of lower income households

If a local government revises its share of regional housing needs determined by each COG, the COG shall accept the revision, or shall indicate, based upon available data and accepted planning methodology, why the revision is inconsistent with the regional housing need.

BOARD OF CONTROL DECISION

The Board of Control found that Chapter 1143/80, constituted a mandate requiring a "new program" to be provided by councils of governments on August 19, 1981. The Board acted in response to a "claim of first impression" filed by the Association of Bay Area Governments on July 22, 1981.

ELIGIBLE CLAIMANTS

All Councils of Governments (COGs) are eligible to file for reimbursement of state mandated costs related to preparation of the regional housing needs plan.

PERIOD OF REIMBURSEMENT

All costs incurred on or after January 1, 1981, except as otherwise specified under "Reimbursable Costs", are reimbursable. Chapter 1143/80 became effective on January 1, 1981. Only one fiscal year shall be included in each claim. The first claim submitted will report costs incurred from January 1, 1981 to June 30, 1981; the second from July 1, 1981 to June 30, 1982. Pursuant to Revenue and Taxation Code Section 2231, as specified by the State Controller's office, claims for reimbursement of 1979-80 and 1980-81 fiscal year costs should be submitted within 120 days of the adoption of these parameters and guidelines.

If total costs incurred in a single fiscal year are less than \$200, no reimbursement shall be allowed (RTC Section 2233).

REIMBURSABLE COSTS

Revenue and Taxation Code Section 2207 defines "costs mandated by the state" to mean any increased costs resulting from "an increased level of service or new program". Chapter 1143/80 mandates certain new program activities for COGs focusing on the regional share requirement of the housing element. The following activities and costs may be reimbursed under these parameters and guidelines provided that costs are incurred prior to the dates specified below:

1. **Activity:** If necessary, adjust data provided by the Department of Housing and Community Development to determine existing and projected housing needs of the region. Coordination of COG determinations of regional housing needs should take place with the Department of Housing and Community Development (HCD).

Reimbursable Costs: Salaries and benefits of personnel utilized to review and adjust data provided by HCD. These costs must be incurred prior to December 31, 1981.

2. **Activity:** Preparation of draft plan that distributes regional housing needs to cities and counties within the geographical area of the COG, utilizing available data and the factors cited in Section 65584(a).

Reimbursable Costs: Salaries and benefits of personnel directly assigned to the preparation of the plan, including professional staff, clerical support and/or the preparation of the plan are also reimbursable. These costs must be incurred prior to December 31, 1981.

3. **Activity:** Conducting of public hearings by the Board of Directors for the purpose of adopting determinations of local shares of regional housing needs. Meetings, briefing, training sessions, seminars and advisory committees are not reimbursable.

Reimbursable Costs: Salaries and benefits of personnel, e.g. Executive Director, Program Manager, and clerical required to conduct hearing.

Space-Rental of adequate space in the region for the purpose of conducting the public hearing.

Supplies-Charts, graphs, envelopes and maps used for the purpose of conducting the public hearing.

Reports-Final, plan proposed for adoption.

Those costs must be incurred prior to December 31, 1981.

4. **Activity:** Review of all local government revisions to the COG's determined shares of regional housing needs, if any, and acceptance of such revisions or indications that such revisions are inconsistent with regional housing needs within 60 days of local government's revisions.

Reimbursable Costs: Salaries and benefits of personnel directly assigned to the review and revision process. Costs must be incurred prior to May 30, 1982.

5. **Activity:** Claimants may be reimbursed under this section for one iteration of these activities, per required revision.

Reimbursable Costs: As described above, These costs must be incurred by the following deadline:

- A) **Southern California Association of Governments:** July 1, 1984, for the first revision and July 1, 1988 for the second revision.
- B) **Association of Bay Area Governments:** January 1, 1985, for the first revision, and July 1, 1989 for the second revision.
- C) **San Diego Association of Governments; the Council of Fresno County Governments, the Kern County Council of Governments, the Sacramento Council of Governments, and the association of Monterey Bay Area Governments:** July 1, 1985, for the first revision, and July 1, 1990 for the second revision.
- D) **All other counsels of governments:** January 1, 1986, for the first revision, and July 1, 1991 for the second revision.

Reimbursement for activities 1 through 5 above shall be subjected to the following limitations:

1. Professional staff assigned to the program activities 1 through 5. Reimbursement shall not be made for managers, supervisors or staff who are not directly and functionally assigned to these program activities.
2. Staff travel to public hearing if not conducted at normal place of business is reimbursable.
3. Professional and consultant services to provide assistance to the staff in the preparation of the regional housing needs plan is reimbursable.
4. Services and Supplies - Working maps, base maps, charts, and, graphs and other essential items which are necessary for use in the preparation of the regional housing need determinations and public hearings are reimbursable,

5. Records of actual and necessary staff time to accomplish mandate should be maintained, and the claim must be based on these records,.

GUIDELINES FOR CLAIM PREPARATION

This procedure will help COG's organize the data presentation for the various categories of allowable costs that may be claimed. Adherence to this procedure will speed up the reimbursement process. It will also ensure consistency in the review of the claim and lessen the **need** by the Controller's Office to contact the claimant for additional information.

1. DESCRIPTION OF ACTIVITY

Workload data as well as invoices and other verifications for **supplies**, equipment and services etc. related to the preparation of regional need determinations are requested to support the level of costs claimed. If costs cannot be supported, the costs reported will be disallowed by the Controller. The selection of appropriate data is the responsibility of the claimant.

2. SALARY AND EMPLOYEE BENEFITS

Show the classification of **the** employees involved, mandated function performed, number of hours devoted to the function, hourly rate and **fringe** benefits.

3. SERVICE AND SUPPLIES

Only expenditures which can be identified as a direct cost, as a result of the mandate can **be** claimed; List costs of material acquired which **have** been consumed or expended specifically for the purpose of this mandate.

4. ALLOWABLE OVERHEAD COST

Indirect costs may only be claimed through an indirect cost rate proposal prepared in accordance with the provision of Federal Regulation OASC-10 (use in conjunction in FMC-74-4).

REQUIRED CERTIFICATION

The following Certification **must** accompany the claim:

I DO HEREBY CERTIFY:

THAT Section 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with;

THAT I am the person authorized by the local agency to file claim with the State of California

Signature of Authorized Representative

Date

Title

Telephone Number

10/10/10

10/10/10

10/10/10

SECTION 8

MINUTES

State Board of Control
October 25, 1984
Room 437, State Capitol Building
Sacramento, California

Present were Chairperson Elizabeth Yost, Chief Deputy Director, Department of General Services; Member Elmer T. Jaffe; Member Peter Pelkofer, Deputy State Controller; Member Barbara Riordan; and Member Robert Ryan.

There being a quorum present, Chairperson Yost called the meeting to order at 10:00 a.m.

The Board of Control considered the minutes of the August 23, 1984 hearing. Member Jaffe moved and Member Riordan seconded the motion to adopt the minutes as submitted by staff. The minutes were approved unanimously.

The following items were then heard:

Item 9 Brief Written Statement--
 Chapter 1264, Statutes of 1980; and
 PERS Circular Letter No. 800-510
 PERS Retirement

Member Ryan moved and Member Riordan seconded the motion to adopt the brief written statement for an approved mandate, as submitted by staff. The vote on the motion was unanimous. The motion carried.

The Board clarified that the PERS Circular Letter No. 800-510 constituted an Executive Order pursuant to Revenue and Taxation Code Section 2209.

Item 8 Brief Written Statement--
 Chapter 1220, Statutes of 1983
 Employee Personnel Files

Member Pelkofer moved and Member Ryan seconded the motion to adopt the Brief Written Statement as prepared by staff. The vote on the motion was unanimous. The motion carried.

Item 5 Proposed Parameters and Guidelines
 Title 8, CAC, Section 3401 (c)
 Personal Safety Alarm Devices

The State Controller's Office suggested that several amendments be made to the claimant's proposed parameters and guidelines. The Department of Finance was in agreement with the Controller's suggested amendments. Board staff recommended that the proposal be adopted with the Controller's amendments, except that the cost of test claim preparation and presentation be allowed.

William Ross, the claimant's legal counsel, noted that the Board had previously allowed reimbursement for test claim preparation and presentation on a prior test claim involving Title 22, CAC, Section 60313.

Member Riordan moved and Member Ryan seconded the motion to approve the claimant's proposed parameters and guidelines with the State Controller's Office amendments, except that test claim preparation costs would be allowed for the test claimant. The vote on the motion was: Member Jaffe, aye; Member Pelkofer, no; Member Riordan, aye; Member Ryan, aye; Chairperson Yost, aye. The motion carried.

Item 7 Proposed Amendment to Parameters and Guidelines
Chapter **1143**, Statutes of **1977**
Regional Kousing Needs -- Councils of Government

The Board, by general consent, agreed to amend the parameters and guidelines in accordance with deadlines established by AB **3618**. In addition, Mary Ann Karrer, representing the Department of Housing and Community Development (HCD) requested that the Board further amend the parameters and guidelines by moving the deadline for the second housing revision to one year earlier, in order to help local governments meet deadlines established in AB **1597**.

Member Ryan moved and Member Riordan seconded the motion to amend the parameters and guidelines in accordance with staff's recommendation and the recommendation of HCD. The vote on the motion was unanimous. The motion carried.

Test Claim--Chapter **498**, Statutes of **1983**;

Item 1 San Diego Unified School District
\$135,102

Both the Department of Finance and the Department of Education found that Chapter **498**, Statutes of **1983** created potential state mandated increased costs. Also, at issue was whether or not to accept multiple filings on Chapter **498/83**.

After discussion, the Board decided to accept one test claim for each subject area of Chapter **498/83** if that subject has not previously been heard by the Board. Emil Relat, Board Counsel, indicated that this method was in conformance with Board policy.

The Board then considered the merits of the test claim. The Board found that Chapter **498/83** created increased costs by compelling school administrators and principals to recommend expulsion for certain infractions. Member Ryan moved and Member Riordan seconded the motion that a mandate be approved. The vote on the motion was unanimous. The motion carried.

Discussion Item

The Board then discussed the proposed procedures being presented in accordance with language in SB **1992**. James Ferguson, representing the State Controller's Office (SCO) recommended the Board add a

paragraph to the proposed procedures for court-mandated desegregation programs that would require school districts, and programs, which do not currently receive funding under Ed. Code Section 42243.6, for court-mandated desegregation costs to file claims with the Board of Control.

Member Pelkofer moved and Member Riordan seconded the motion to adopt staff's proposed procedures along with SCO's recommended change. The vote on the motion was unanimous. The motion carried.

Staff also proposed that the Board amend the parameters and guidelines on Chapter 1619, Statutes of 1982 to inform claimants that SB 1992 created a \$7 million general fund appropriation to pay for voluntary pupil integration program costs in the 1984-85 fiscal year.

Member Pelkofer moved and Member Riordan seconded the motion to amend the parameters and guidelines in accordance with staff's proposal. The vote on the motion was unanimous. The motion carried.

Reimbursement Claim--Chapter 1619, Statutes of 1982
Voluntary Pupil Integration

Item 4 Long Beach Unified School District
 \$5,209,939 1984-85 F.Y.

Although the costs for the 1984-85 F.Y. as submitted by the claimant are \$5,225,701, the parameters and guidelines places a ceiling on the maximum reimbursement. That ceiling is the 1980-81 fiscal year costs of the voluntary integration program. The claimant reported the 1980-81 fiscal year costs in the amount of \$5,209,939. Board staff recommended approval of this amount contingent upon a review by the State Controller's Office (SCO).

The SCO stated, in writing, that on approval of the claim and appropriation of funds for payment, the SCO will then review the claim prior to payment and may subsequently audit the claim.

Member Pelkofer moved and Member Ryan seconded the motion to approve the \$5,209,939 contingent upon a possible audit prior to, or after, disbursement of funds to the claimant.

The vote on the motion was unanimous. The motion carried.

Test Claim--Chapter 1018, Statutes of 1979
Superior Court Judgeships

Item 2 City and County of San Francisco
 \$39,082

At issue was whether the Board of Control has jurisdiction to consider if the appropriation in Chapter 1018/79 is sufficient for 1982-83 and 1983-84 fiscal years.

Member Pelkofer moved and Member Riordan **seconded** the motion that the Board accept jurisdiction over the claim and next **proceed** on the question of whether a mandate exists. The vote on the motion was unanimous. The motion carried.

It was agreed by the Board that it would accept jurisdiction over the test claim if submitted under the authority of Revenue and Taxation Code Section 2253(c).

A recess was called at 11:00 a.m. The hearing reconvened at 11:13 a.m.

Incorrect Reduction Claim--Chapter 1123, Statutes of 1977
Victims of Violent Crimes

Item 10	County of Glenn \$1,319.00
Item 11	County of Lassen \$2,238.00
Item 12	County of Tehama \$1,428.00
Item 13	County of Yolo \$3,710.00

Considerable discussion took place on this item concerning which issues the Board should consider in order to adjudicate these claims.

Mr. Baldridge, representing the State Controller's Office, stated that the only issue before the Board are the reductions that took place at the "desk audit" level. Mr. Baldridge stated that these claims were reduced, at that level, because they appeared to be excessive and the claimant counties did not submit documentation that would support the amounts they were claiming.

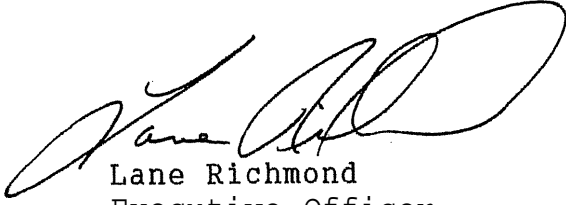
Mr. Hairston, representing the claimants stated that these claims were reduced in an arbitrary manner. Mr. Hairston stated that the claimants have filed their claims in accordance with the Controller's claiming instructions and the Controller has never provided any evidence to refute the amounts claimed by the counties. Therefore, Mr. Hairston stated that the preponderance of the evidence lies with the claimants.

Member Pelkofer stated that it appears that there is a difference of opinion on what duties constitute the mandate in Chapter 1123/77. The Controller is allowing for the amount of time it takes to write down the restitution issues in a probation report, whereas the claimants are claiming the amount of time it takes to gather the necessary information, analyze it, and then write the report.

Member Jaffe moved and Member Ryan seconded the motion to find that the State Controller's Office incorrectly reduced the reimbursement claims submitted by these four counties. The vote on the motion was: Member Jaffe aye; Member Pelkofer, no; Member Riordan, aye; Member Ryan, aye; Chairperson Yost, no. The motion carried.

Member Jaffe then suggested that the November 29, 1984 Board hearing be cancelled. Concerns were raised by Member Riordan and after discussion among the Board Members with input from Allan Burdick, representing the County Supervisors Association of California, it was agreed that the Board would meet on November 29, 1984.

With no further items on the agenda, Chairperson Yost adjourned the meeting at 12:47 p.m.



Lane Richmond
Executive Officer

SECTION 9

Adopted: 10-21-81
Amended: 12-16-81
Amended: 10-25-84
Amended: 9-22-88

Parameters and Guidelines
Regional Housing Need Determinations,
Councils of Governments
(Chapter 1143, 'Statutes of 1980,
Government Code Section 65584-65589)

SUMMARY OF MANDATE

By enacting Chapter 1143, Statutes of 1980, the Legislature required that each council of government (COG) determine the existing and projected need for housing for its region, and determine each City and County share of such need, based upon these factors:

- Market demand for housing
- Employment opportunities
- Availability of Suitable sites and public facilities
- Commuting patterns
- Type and tenure of housing
- Housing needs of farmworkers
- Desire to avoid impaction of localities with relatively high proportions of lower income households

If a local government revises its share of regional housing needs determined by each COG, the COG shall accept the revision, or shall indicate, based upon available data and accepted planning methodology, why the revision is inconsistent with the regional housing need.

BOARD OF CONTROL DECISION

The Board of Control found that Chapter 1143/80, constituted a mandate requiring a "new program" to be provided by councils of governments on August 19, 1981. The Board acted in response to a "claim of first impression" filed by the Association of Bay Area Governments on July 22, 1981.

ELIGIBLE CLAIMANTS

All Councils of Governments (COGs) are eligible to file for reimbursement of state mandated costs related to preparation of the regional housing needs plan.

PERIOD OF REIMBURSEMENT

All cost incurred on or after January 1, 1981, except as otherwise specified under "Reimbursable Costs", are reimbursable. Chapter 1143/80 became effective on January 1, 1981. Only one fiscal year shall be included in each claim. The first claim submitted will report costs incurred from January 1, 1981 to June 30, 1981; the second from July 1, 1981 to June 30, 1982. Pursuant to Revenue and Taxation Code Section 2231, as specified by the State Controller's Office, claims for reimbursement of 1979-80 and 1980-81 fiscal year costs should be submitted within 120 days of the adoption of these parameters and guidelines.

If total costs incurred in a single fiscal year are less than \$200, no reimbursement shall be allowed (RTC Section 2233).

REIMBURSABLE COSTS

Revenue and Taxation Code Section 2207 defines "costs mandated by the state" to mean any increased costs resulting from "an increased level of service or new program". Chapter 1143/80 mandates certain new program activities for COGs focusing on the regional share requirement of the housing element. The following activities and costs may be reimbursed under these parameters and guidelines provided that costs are incurred prior to the dates specified below:

1. Activity: If necessary, adjust data provided by the Department of Housing and community Development to determine existing and projected housing needs of the region. Coordination of COG determinations of regional housing needs should take place with the Department of Housing and Community Development (HCD).

Reimbursable Costs: Salaries and Benefits of personnel utilized to review and adjust data provided by HCD. These costs must be incurred prior to December 31, 1981.

2. Activity: Preparation of draft plan that distributes regional housing needs to cities and counties within the geographical area of the COG, utilizing available data and the factors cited in Section 65584(a).

Reimbursable Costs: Salaries and benefits of personnel directly assigned to the preparation of the plan, including professional staff, clerical support and/or the preparation of the plan are also reimbursable. These costs must be incurred prior to December 31, 1981.

3. Activity: Conducting of public hearings by the Board of Directors for the purpose of adopting determinations of local shares of regional housing needs. Meetings, briefing, training sessions, seminars and advisory committees are not reimbursable.

Reimbursable Costs: Salaries and benefits of personnel, e.g. Executive Director, Program Manager, and clerical required to conduct hearing.

Space-Rental of adequate space in the region for the purpose of conducting the public hearing.

Supplies-Charts, graphs, envelopes and maps used for the purpose of conducting the public hearing.

Reports-Final plan proposed for adoption.

These cost must be incurred prior to December 31, 1981.

4. Activity: Review of all local government revisions to the COG's determined shares of regional housing needs, if any, and acceptance of such revisions or indications that such revisions are inconsistent with regional housing needs within 60 days after the time period for 'local government's revisions.

Reimbursable Costs: Salaries and benefits of personnel directly assigned to the review and revision process. Costs must be incurred prior to May 30, 1982.

5. Activity: Claimants may be reimbursed under this section for one iteration of these activities, per required revision.

Reimbursable Costs: As described above. These costs must be incurred by the following deadline:

- A) Southern California Association of Governments: July 1, 1984, for the first revision and December 31, 1988 for the second revision.
- B) Association of Bay Area Governments: January 1, 1985, for the first revision, and December 31, 1989 for the second revisions.
- C) San Diego Association of Governments, the Council of Fresno County Governments, the Kern County Council of Governments, the Sacramento Council of Governments, and the Association of Monterey Bay Area Governments: July 1, 1985, for the first revision, and December 31, 1990 for the second revision.
- D) All other councils of governments: January 1, 1986, for the first revision, and December 31, 1991 for the second revision.

Reimbursement for activities 1 through 5 above shall be subjected to the following limitations:

1. Professional staff assigned to the program activities 1 through 5. Reimbursement shall not be made for managers, supervisors or staff who are not directly and functionally assigned to these program activities..
2. Staff travel to public hearing if not conducted at normal place of business is reimbursable.
3. Professional and consultant services to provide assistance to the staff in the preparation of the regional housing needs plan is reimbursable.
4. Services and Supplies - Working maps, base maps, charts, and graphs and other essential items which are necessary for use in the preparation of the regional housing need determinations and public hearings are reimbursable.

5. Records of actual and necessary staff time to accomplish mandate should be maintained, and the claim must be based on these records.

GUIDELINES FOR CLAIM PREPARATION

This procedure will help COG's organize the data presentation for the various categories of allowable costs that may be claimed. Adherence to this procedure will speed up the reimbursement process. It will also ensure consistency in the review of the claim and lessen the need by the Controller's Office to contact the claimant for additional information..

1. DESCRIPTION OF ACTIVITY

Workload data as well as invoices and other verifications for supplies, equipment and services etc. related to the preparation of regional need determinations are requested to support the level of costs claimed. If costs cannot be supported, the costs reported will be disallowed by the Controller. The selection of appropriate data is the responsibility of the claimant.

2. SALARY AND EMPLOYEE BENEFITS

Show the classification of the employees involved, mandated function performed, number of hours devoted to the function, hourly rate and fringe benefits.

3. SERVICE AND SUPPLIES

Only expenditures which can be identified as a direct cost as a result of the mandate can be claimed. List costs of material acquired which have been consumed or expended specifically for the purpose of this mandate.

4. ALLOWABLE OVERHEAD COST

Indirect costs may only be claimed through an indirect cost rate proposal prepared in accordance with the provision of Federal Regulation OASC-10 (use in conjunction with FMC-74-4) .

REQUIRED CERTIFICATION

The following Certification must accompany the claim:

I DO HEREBY CERTIFY:

THAT Section 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with;

THAT I am the person authorized by the local agency to file claim with the State of 'california

Signature of Authorized Representative

Date

Title

Telephone Number

SECTION 10

MINUTES

COMMISSION ON STATE MANDATES

September 22, 1988

10:00 a.m.

State Capitol, Room 437
Sacramento, California

Present were: Chairperson Jesse Huff, Director, Department of Finance; Fred R. Buenrostro, Representative of the State Treasurer; D. Robert Shuman, Deputy State Controller; Robert Martinez, Director, Office of Planning and Research; Robert C. Creighton, Public Member.

There being a quorum present, Chairperson Huff called the meeting to order at 10:20 a.m.

Item 1 Minutes

Chairperson Huff asked if there were any suggested changes or objections to the minutes of the commission's hearing of August 24, 1988.

~~Member~~ Creighton moved approval of the minutes. ~~Member~~ Martinez seconded the motion. There being no objections to the motion, the motion carried.

Consent Agenda

The following items were considered by the commission on a consent agenda:

- Item 6 Proposed Parameters and Guidelines
Chapter 875, Statutes of 1981
Interview of Potentially Dependent Children
- Item 8 Proposed Parameters and Guidelines
Chapter 1335, Statutes of 1986
Trial Court Delay Reduction Act
- Item 9 Proposed Parameters and Guidelines Amendment
Chapter 1143, Statutes of 1980
Regional Housing Needs
- Item 10 Proposed Statewide Cost Estimate
Chapter 1117, Statutes of 1984
Airport Land Use

There being no discussion of the items on the consent agenda, Chairperson Huff moved adoption of staff's recommendations on these items. There was no objection. The vote was unanimous. The motion carried.

Item 5 Proposed Parameters and Guidelines
Chapter 641, Statutes of 1986
Open Meetings Act

David Marceau and Pat Letcher appeared on behalf of the claimant, the City of Los Angeles. Mr. Marceau stated that a parameters and guidelines amendment may be necessary in the future. Ms. Letcher explained that internal procedures of the claimant had to be modified prior to the effective date of the statute in order to be in compliance with the law. She, therefore, requested that the reimbursement period in the proposed parameters and guidelines be changed from January 1, 1987, to August 29, 1986.

Based on that request, Member Shuman proposed a conforming change to the reimbursable costs section to state "necessary and reasonable costs".

Member Creighton then moved to approve staff's recommendation with the amendments proposed by Member Shuman. Member Martinez seconded the motion. The vote was unanimous. The motion carried.

Item 7 Proposed Parameters and Guidelines
Chapter 1226, Statutes of 1984
Chapter 1526, Statutes of 1985
Investment Reports

Staff proposed a technical change to the proposed parameters and guidelines as presented to conform them to the requirements in the statutes, and stated that all parties concurred.

Linda Willis and Marsha Wilson appeared on behalf of the claimant, the County of Los Angeles. Ms. Wilson briefly stated her belief as to the intent of the "Reimbursable Costs" section language.

There being no further discussion, Member Shuman moved to adopt the staff's recommendation, as amended. Member Buenrostro seconded the motion. The vote was unanimous. The motion carried.

Item 11 Proposed Statement of Decision
Chapter 1598, Statutes of 1982
Mental Health Services

There were no appearances and no discussion on this item. Member Buenrostro moved to adopt the proposed statement of decision as presented by staff. Member Martinez seconded the motion. The vote was unanimous, with Chairperson Huff abstaining. The motion carried.

Item 2 Test Claim
Chapter 841, Statutes of 1985
Chapter 931, Statutes of 1987
Cancer Registry

M. Steven Lipton, representing the Selma District Hospital, discussed the history and nature of reporting cancer data. Mr. Lipton then discussed the application of the Supreme Court decision in Lucia Mar Unified School District v. Honig (1988) 44 Cal.3d 830, and the Court of Appeals decision in Carmel Valley Fire Protection District v. State of California, (1987) 190 Cal. App.3d, 234, to the test claim submitted by the claimant. Mr. Lipton presented and discussed the manuals for reporting cancer cases to the Department of Health Services. Mr. Lipton noted that the issue before the commission is whether the abstracting and reporting of cancer data to the DHS is a governmental function of providing a service to the public. Mr. Lipton stated that if the commission concludes that the reporting requirement is a governmental function of providing a service to the public, then under the provisions of the Supreme Court's decision in County of Los Angeles v. State of California (1987) 43 Cal.3d 46 [233 Cal.Rptr. 38], the commission should find that the reporting of cancer data is a reimbursable state mandated program.

Theodora Simpson, representing the Department of Health Services, explained that the reporting of cancer cases is not a unique requirement of local government, but rather, it is a requirement that is applicable to all providers of health care. Ms. Simpson explained that the collating and collecting of cancer data by the DHS may be considered a governmental function, however, the abstracting and reporting of cancer data to DHS by hospitals is not a governmental function of providing a service to the public. Therefore, Ms. Simpson concluded that the Lucia Mar decision is not relevant to this test claim.

Member Shuman stated that he sympathized with the claimant, however, he did not believe that the reporting of cancer data was a governmental function of providing services to the public.

Member Shuman moved to adopt the staff recommendation to deny the claim. Member Buenrostro seconded the motion. The vote on the motion was: Member Buenrostro, aye; Member Creighton, no; Member Martinez, no; Member Shuman, aye; Chairperson Huff, aye. The motion carried.

Item 4 Test Claim
Chapter 1208, Statutes of 1987
Public Liability

Allan Burdick of the County Supervisor's Association of California appeared on behalf of the claimant. Mr. Burdick expressed a concern that Chapter 1208, Statutes of 1987, may impose a reimbursable state mandate on local governments, other than the the alleged mandate identified in this test claim. Therefore, Mr. Burdick requested that the commission limit their decision to the alleged mandate upon which this test claim is based.

Commission legal counsel, Philip T. Bird, advised the commission that once the commission takes action on a statute then the commission may not entertain test claims on that statute in the future.

Chairperson Huff moved to continue this test claim. Chairperson Huff stated that this test claim would appear on the October 20, 1988 agenda and the commission would act upon it unless the claimant should withdraw the test claim. Member Martinez seconded the motion. The motion carried.

Item 3 Test Claim
Chapter 328, Statutes of 1982
Chapter 1594, Statutes of 1982
Medically Indigent Adults

Commission legal counsel, Philip T. Bird, recused himself prior to testimony on this item due to a conflict of interest. Mark Windisch, appearing on behalf of San Bernardino County, summarized the arguments previously submitted by the claimants in their test claims and rebuttals. Additionally, Mr. Windisch, in addressing the late filing of the Department of Mental Health, addressed points which he believes have gone unanswered: (1) whether the counties' responsibility is residual in nature; (2) the import of the Gann limit on this program; (3) that the State could shift the entire Medi-Cal Program to the counties and disavow any financial responsibility under the State's analysis in this case; and (4) the financial responsibility aspect of the Lucia Mar case.

Janet Shaw, representing the Department of Health Services, restated the department's position that these statutes did not impose a new program or higher level of service. Ms. Shaw stated that Welfare & Institutions Code section 17000, 17001 and several other statutes gave counties full discretion to decide what they were going to be providing, the scope of those services, and the population that those services would be provided to.

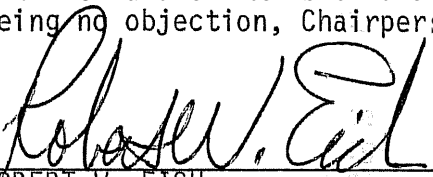
After considerable discussion, during which the commissioners posed a number of questions to the interested parties before them, Chairperson Huff asked if there were any further questions.

Member Creighton then moved approval of the staff recommendation to approve this claim. Member Shuman seconded the motion. The vote on the motion was: Member Buenrostro, no; Member Creighton, aye; Member Martinez, no; Member Shuman, aye; Chairperson Huff, no. The motion failed.

Item 12 Discussion Item
1989 Proposed Hearing Schedule

Member Buenrostro moved to adopt the proposed hearing schedule. Member Shuman seconded the motion. The vote was unanimous. The motion carried.

With no further items on the agenda, Member Martinez moved to adjourn. There being no objection, Chairperson Huff adjourned the hearing at 12:08 p.m.



ROBERT W. EICH
Executive Director

RWE: GLH: gs: 01 15g